

PUBLIC ACTS
FOR THE REGULATION OF
RAILWAYS
1838-1859.

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A COLLECTION
OF THE
PUBLIC GENERAL ACTS
FOR THE

Regulation of Railways:

INCLUDING
THE COMPANIES, LANDS, AND RAILWAYS CLAUSES
CONSOLIDATION ACTS.

1838—1859.

WITH GENERAL INDEX.

EIGHTH EDITION.



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1860.



PREFACE.

THIS Collection of Public Railway Acts was first published in the year 1845, and has since passed through several editions. The volume now published contains the Public Statutes for the Regulation of Railways in England and Ireland, in force at the close of 22 & 23 Vict., Sess. 2, 1859.

In the present edition three statutes have been omitted—viz., the 9 & 10 Vict. c. 28, “to facilitate the Dissolution of certain Railway Companies,” the operation of which Act was limited to Projected Railway Companies, in respect of which an Act had not been obtained before the 3rd July, 1846: the 9 & 10 Vict. c. 105, “for constituting Commissioners of Railways,” which Act was repealed by the 14 & 15 Vict. c. 64, s. 1: and the 11 & 12 Vict. c. 3, “to give further time for making certain Railways,” which Act empowered the Commissioners of Railways, upon an application made before the 20th February, 1848, to extend for two years the time limited by Special Acts for the Compulsory Purchase of Lands and the Completion of Works.

With respect to the 13 & 14 Vict. c. 83, “to Facilitate the Abandonment of Railways, and the Dissolution of Railway Companies in certain cases,” it is stated in the Register of Public Acts, prepared for the Statute Law Commission, that “this act must, it seems, from its nature be temporary; but when it can be said to have ceased to operate appears doubtful.” This act has been carefully examined to ascertain whether it could be safely omitted, but the editor of this volume is of opinion that under its provisions (as amended by the 14 & 15 Vict. c. 64, s. 1) it is competent for a railway company incorporated previously to the 14th August, 1850, to apply “at any time” to the Board of Trade to be allowed to abandon their railway, “or some part thereof;” and if it be admitted that the exercise hereafter of the powers of this Act with respect to the whole of any railway is improbable, it is yet possible that circumstances may arise which may lead to their being used for the purpose of abandoning a branch line; at all events it is submitted that while the power to apply to the Board of Trade exists, this act must be considered as still in force.

JAMES BIGG.

January, 1860.

PREFACE

The publication of this history of the city of New York is a matter of some importance, and one which has long been a desideratum. The city of New York is one of the most important cities in the world, and its history is one of the most interesting and valuable. It is a city of great size and power, and its history is one of the most important and valuable.

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JAMES BICE.

1847.

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PROVISIONS IN PUBLIC ACTS,

WHICH HAVE BEEN AMENDED OR REPEALED.

1 & 2 VICT. c. 98, s. 1. (So far as relates to the Conveyance of Mails *with Guards and other Officers of the Post-office.*)—By the Post-office Act 10 & 11 Vict. c. 85, s. 16 Power is given to send Mails in manner prescribed by this Act, notwithstanding any Guard or other officer shall not be sent in charge thereof.

— (So far as relates to the Rate of Speed of Mail Trains.)—Amended by the 7 & 8 Vict. c. 85, s. 11.

3 & 4 VICT. c. 97, ss. 1 & 2. (Opening of Railways.)—Repealed by the 5 & 6 Vict. c. 55, s. 3.

— s. 5. (Officers of Railway Company ineligible to the Appointment as inspectors of Railways.)—Repealed by the 7 & 8 Vict. c. 85, s. 15.

— ss. 11 & 12. (Prosecutions to enforce Provisions of Railway Acts.)—Repealed by the 7 & 8 Vict. c. 85, ss. 16 & 18.

— s. 13. (Railway Servants guilty of Misconduct.)—Amended by the 5 & 6 Vict. c. 55, s. 17.

5 & 6 VICT. c. 55, s. 20. (Conveyance of Military and Police.)—Amended by the 7 & 8 Vict. c. 85, s. 12.

7 & 8 VICT. c. 85, s. 6. (Fares by Cheap Trains for Fractions of a Mile.)—Amended by 21 & 22 Vict. c. 75, s. 1.

— s. 12. (Conveyance of Military and Police.)—By the Entry of Seamen Act, 16 & 17 Vict. c. 69, s. 18, the Naval Forces are to be conveyed by Railway upon the same terms as by this Act is provided for Military and Police.

8 VICT. c. 18, ss. 18 to 68. (Purchase and taking of Lands otherwise than by agreement.)—With respect to certain Railways in Ireland, amended by the 14 & 15 Vict. c. 70.

— s. 104. (Application of Compensation paid to Committee for Common Rights, &c.)—Amended by the Inclosure of Lands Act, 17 & 18 Vict. c. 97, ss. 15 to 20.

— (Payment of Money into the Bank of England.)—By the Court of Chancery (County Palatine of Lancaster) Act, 13 & 14 Vict. c. 43, s. 12, Money paid into Court under this Act for Lands within the County Palatine of Lancaster, may be paid into the Bank of England to the Joint Account of the Clerk of the Council of the Duchy and of the Registrar of the County Palatine Court.

8 & 9 VICT. c. 113, s. 4. (Charges of Felony.)—By the Law of Evidence Amendment Act, 14 & 15 Vict. c. 99, s. 17, Persons charged with Felony under this Act may be dealt with in any county or place in which apprehended or in custody; and any accessory may be dealt with where the Principal Offender may be tried.

- 9 & 10 VICT. c. 28. (Dissolution of Certain Railway Companies.)—Spent.
- 9 & 10 VICT. c. 105. (Commissioners of Railways.)—Repealed by the 14 & 15 Vict. c. 64, s. 1.
- 11 & 12 VICT. c. 3. (Extension of Time for making certain Railways.)—Expired.
- 13 & 14 VICT. c. 83. (Railways Abandonment.)—The Powers by this Act granted to the Commissioners of Railways are transferred to the Board of Trade by the 14 & 15 Vict. c. 64, s. 1.
- 14 & 15 VICT. c. 70. (Lands Clauses Consolidation, Ireland.)—Continued by the 19 & 20 Vict. c. 72, and 21 & 22 Vict. c. 34, till the 12th July, 1859, and to end of then next session.

The Provisions which have been Amended or Repealed, are printed in Italic Type.

PROVISIONS IN SPECIAL ACTS,

AMENDED OR REPEALED BY PUBLIC ACTS.

- BRANCH RAILWAYS.—Provisions empowering Justices to decide Disputes.—Repealed by the 3 & 4 Vict. c. 97, s. 18.
- BYE LAWS.—Provisions requiring the approval or concurrence of any Justice of the Peace, Court of Quarter Sessions, &c.—Repealed by the 3 & 4 Vict. c. 97, s. 10.
- CARRIAGES.—Provisions restricting the Weight to Four Tons.—Repealed by the 5 & 6 Vict. c. 55, s. 16.
- COMMISSIONERS OF RAILWAYS.—The powers granted to the Commissioners of Railways since the 28th August, 1846, to be transferred to the Board of Trade.—14 & 15 Vict. c. 64, s. 1.
- LEASING OF CANALS OR RAILWAYS.—Restricted by the 21 & 22 Vict. c. 75, s. 3.
- LEVEL CROSSINGS.—Provisions requiring Gates to be kept closed across the Railway.—Repealed by the 5 & 6 Vict. c. 55, s. 9.
- SELLING OR LEASING RAILWAYS.—Restricted by the 8 & 9 Vict. c. 96, s. 1.

PUBLIC GENERAL ACTS

RELATING TO

RAILWAYS.

1 & 2 VICT. CAP. 98.

*An Act to provide for the Conveyance of the Mails
by Railways.* [14th August, 1838.]

WHEREAS it is expedient that provision should be made by law for the conveyance of the mails by railways at a reasonable rate of charge to the public:

1. Be it enacted, by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That in all cases of railways already made or in progress, or to be hereafter made within the United Kingdom, by which passengers or goods shall be conveyed in or upon carriages drawn or impelled by the power of steam, or by any locomotive or stationary engines, or animal or other power whatever, it shall be lawful for the Postmaster-General, by notice in writing under his hand delivered to the company of proprietors of any such railway, to require that the mails or post letter bags shall, from and after the day to be named in any such notice, (being not less than twenty-eight days from the delivery thereof,) be conveyed and forwarded by such company on their railway, either by the ordinary trains of carriages, or by special trains, as need may be, at such hours or times in the day or night as the Postmaster-General shall direct, together with the guards appointed and employed by the Postmaster-General in charge thereof, and any other officers of the post-office; and thereupon the said company shall, from and after the day to be named in such notice, at their own costs, provide sufficient carriages and engines on such railways for the conveyance of such mails and post letter bags to the satisfaction of the Postmaster-General, and receive, take up, carry, and convey by such ordinary or special trains of carriages or otherwise, as need may be, all such mails or post letter bags as shall for that purpose be tendered to them, or any of their officers, servants, or agents, by any officer of the post-office, and also receive, take up, carry,

*Conveyance
of Mails.*

Postmaster
General
may require
company
to convey
the mails
on their
railway.
See 7 & 8
Vict. c. 85,
s. 11.

By the
Post Office
Act, 10 &
11 Vict.
c. 85,
s. 16, power
is given to
send mails
without a
guard.

Conveyance of Mails. — and convey, in and upon the carriages carrying such mails or post letter bags, the guards in charge thereof, and any other officers of the post-office, and shall receive, take up, deliver, and leave such mails or post letter bags, guards, and officers at such places in the line of such railway, on such days, at such hours or times in the day or night, and subject to all such reasonable regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, and times of arrival, as the Postmaster-General shall in that behalf from time to time order or direct :

Amended by the 7 & 8 Vict. c. 85, s. 11. *Provided always, that the rate of speed to be required shall in no case exceed the maximum rate of speed prescribed by the directors of such railway or railways for the conveyance of passengers by their first class trains ; but that no alteration in the rate of speed of any train by which the mails shall be conveyed shall be made until six calendar months previous notice shall be given to the Postmaster-General of any such intended alteration.*

Carriages to be exclusively appropriated. 2. And be it enacted, That it shall be lawful for the Postmaster-General (if he shall see fit) to require that the whole of the inside of any carriage used on any railway for the conveyance of mails or post letter bags shall be exclusively appropriated for the purpose of carrying the mails.

Separate carriages for sorting letters, to be provided by the company. 3. And be it enacted, That the company of proprietors of any such railway shall, on being required so to do by the Postmaster-General, provide and furnish (in addition to the carriages aforesaid) a separate carriage or separate carriages, fitted up as the Postmaster-General, or such person as he shall nominate in that behalf, shall direct, for the purpose of sorting letters therein, and shall forward the same carriage or carriages by their railway, at such hours or times, and subject to all such reasonable regulations as aforesaid, as the Postmaster-General shall in that behalf order or direct ; and such company of proprietors shall receive, take up, carry, and convey in any such last-mentioned carriage or carriages all such post letter bags and officers of the post-office as the Postmaster-General shall reasonably require, and shall deliver and leave any post letter bags and officers of the post-office at such places on the line of the railway as the Postmaster-General shall in that behalf from time to time reasonably order and direct.

Mail coaches and carts to be conveyed on railway. 4. And be it enacted, That in case the Postmaster-General shall at any time be desirous of sending by any such railway any of her Majesty's mail coaches or mail carts, with the mails or post letter bags and guards thereof, and carriages for sorting letters, with any officers of the post-office therein, instead of sending the said mails or

post letter bags, guards, and officers of the post-office by *Conveyance of Mails.*
 carriages to be provided by such railway company as
 aforesaid, then and in any such case such railway com-
 pany shall, at the request of the Postmaster-General, sig-
 nified by such notice as aforesaid, cause such mail coaches
 or mail carts, with the mails or post letter bags and guards
 thereof, and carriages for sorting letters, with any officers
 of the post-office therein, to be conveyed by the usual or
 proper trucks or frames on their said railway, subject to
 such regulations and restrictions of the Postmaster-General
 as hereinbefore mentioned.

5. And be it enacted, That for the greater security of Regulations
 the mails or post letter bags so to be carried or conveyed of Postmas-
 by railways, the company of proprietors of such respective ter-General,
 railways along which such mails or post letter bags, mail to be ob-
 coaches, or carts and carriages for sorting letters, shall be served by
 so required by the Postmaster-General to be conveyed, company.
 and their respective officers, servants, and agents, shall
 obey, observe, and perform all such reasonable regulations
 respecting the conveyance, delivering, and leaving of such
 mails and post letter bags, guards and officers of the post-
 office, mail coaches, or carts and carriages, on any such
 railways, or on the line thereof, as the Postmaster-General,
 or such officer of the post-office as he shall nominate in
 that behalf, shall in his discretion from time to time give
 or make: Provided always, that it shall not be lawful for Officer of
 any officer or servant of the post-office to interfere with post-office
 or give orders to the engineer or other person having the not to in-
 charge of any engine upon any railway along which mails terfere with
 or post letter bags shall be conveyed; but if any cause of person hav-
 complaint shall arise, the same shall be stated to the con- ing charge
 ductor or other officer of the railway company having the of engine.
 charge of the train, or to the chief officer at any station
 upon the railway; and in case of any default or neglect
 on the part of any officers or servants of the railway com-
 pany to comply with any of the regulations of the Post-
 master-General or other officer of the post-office so to be
 nominated as aforesaid, the railway company shall be
 wholly responsible for the same.

6. And be it enacted, That every company of proprietors Remunera-
 of any railway along which such mails or post letter bags, tion to com-
 mail coaches, carts, or carriages shall be so required by pany for
 the Postmaster-General to be conveyed, shall be entitled conveyance
 to such reasonable remuneration to be paid by the Post- of mails.
 master-General to any such company of proprietors for
 the conveyance of such mails, post letter bags, mail guards,
 and other officers of the post-office, mail coaches, carts,
 and carriages, in manner required by such Postmaster-
 General, or by such officer of the post-office as he shall in

Conveyance of Mails. that behalf nominate as aforesaid, as shall (either prior to or after the commencement of such service) be fixed and agreed on between the Postmaster-General and such company of proprietors, or in case of difference of opinion between them, then as shall be determined by arbitration as hereinafter provided, but so that the services which may be required by the Postmaster-General, or by such officer of the post-office as he in that behalf shall nominate as aforesaid, to be performed by any such company of proprietors, be not suspended, postponed, or deferred by reason of such remuneration not having been then fixed or agreed on between the said Postmaster-General and such company of proprietors, or by reason of the award on any reference to arbitration to determine the remuneration not having been then made.

Agreements as to remuneration, &c., to be altered in case of addition to, or discontinuance of, any part of services of company. 7. And be it enacted, That notwithstanding any agreement entered into between the Postmaster-General and any such company, or any award to be made on any such reference as aforesaid, fixing the amount of remuneration to be paid to such company for any services to be rendered by them as aforesaid, it shall be lawful and competent to and for the Postmaster-General, by notice in writing, to require, from and after the day to be named in any such notice, not being less than twenty-eight days from the delivery thereof, any addition to be made to the services in respect of which such agreement shall be entered into or award made; and in any such case, and also in case of a discontinuance of any part of such services as hereinafter provided, a fresh agreement shall be entered into between the Postmaster-General and such company, regulating the future amount of remuneration to be paid by the Postmaster-General to such company for such increased or diminished services, as the case may be; or if the parties cannot agree on such amount, the same shall be referred to arbitration in like manner as hereinbefore is mentioned and hereinafter provided as to any original agreement; and such arbitrators shall have power to award any compensation they may consider reasonable to be paid to any railway company for any loss that may have been occasioned to them by the discontinuance or alteration of the services previously agreed to be performed by them by any train or carriage specially required by the Postmaster-General to be forwarded for the conveyance of the mails, but so that nevertheless such increased or diminished services shall not be suspended, postponed, or deferred by reason of the amount of such increased or diminished remuneration not having been then fixed or agreed on between the Postmaster-General and such company of proprietors, or by reason of the award on any reference to

arbitration to determine the amount of such increased or diminished remuneration not having been then made. *Conveyance of Mails.*

8. And be it enacted, That it shall be lawful for the Postmaster-General and he is hereby authorized, at any time during the continuance of the services of any company of proprietors as aforesaid, to give to such company, by writing under his hand, six calendar months' previous notice that such services or any part thereof shall cease and determine; and thereupon, at the expiration of such six calendar months' notice, the said services, or such part thereof as aforesaid, and the remuneration for the same, shall cease and determine. *Postmaster General may terminate service of company on notice.*

9. And be it enacted, That it shall be lawful for the Postmaster-General at any time during the continuance of the services of any company of proprietors as aforesaid, by notice in writing under his hand, absolutely to determine and put an end to the same or any part thereof, without giving any previous notice, or on giving any notice less than six calendar months in respect thereof, and thereupon the said services shall cease and determine accordingly: Provided nevertheless, that in case the Postmaster-General shall, without giving six calendar months' notice as aforesaid, at any time determine the services to be required by the Postmaster-General of any company of proprietors, or any part of such services, without any cause whatever, or for any cause other than the default by such company of proprietors in the performance of any of the services to be required of them by the Postmaster-General, or the breach by such company of proprietors of any of their engagements with the Postmaster-General, then and in any such case the Postmaster-General shall make to such company a full and fair compensation for all loss thereby occasioned, the amount whereof in case the parties differ about the same shall be ascertained by arbitration as hereinafter mentioned. *Postmaster General may terminate services of company without previous notice, but if without cause, compensation to be made to company.*

10. And be it enacted, That on all carriages to be provided for the service of the post-office on any such railway, there shall on the outside be painted the royal arms, in lieu of the name of the owner and of the number of the carriage, and of all other requisites, if any, prescribed by law in respect of carriages passing on any such railway; but the want of such royal arms on any carriage belonging to or used by the post-office shall not form an objection to such carriage running on any railway, anything to the contrary notwithstanding. *Royal arms to be painted on carriages provided for the service of the post-office.*

11. And be it enacted, That it shall not be competent or lawful to or for the company of proprietors of any railway to make any bye-laws, orders, rules, or regulations which shall militate against or be contrary or repugnant to *Bye-laws of company not to be repugnant to*

Conveyance of Mails. — provisions of this Act. repugnant to any of the enactments herein contained; and that if any company of proprietors shall make or shall have made any such bye-laws, orders, rules, or regulations, either prior or subsequently to the Postmaster-General signifying to the said company his intention that the mails or post letter bags, mail coaches, carts, or carriages shall be conveyed by such railway, all such bye laws, orders, rules, and regulations, so far as they shall militate against or be contrary or repugnant to any of the enactments herein contained, shall be and be deemed absolutely void and of no effect, in like manner as if such bye-laws, orders, rules, or regulations, had never been made or passed, anything to the contrary in anywise notwithstanding.

Penalty for refusing or neglecting to convey mails,

or to observe regulations of Postmaster General.

12. And be it enacted, That if the company of proprietors of any railway, or any of their respective officers, servants, or agents, shall refuse or neglect to carry or convey any mails or post letter bags, when tendered to them for such purpose by the Postmaster-General or any officer of the post-office, or shall refuse to carry on their railway any mail coaches, carts, or carriages as hereinbefore provided, when so required by the Postmaster-General, or shall refuse or neglect to receive, take up, deliver, and leave any such mails or post letter bags, mail guards, or other officers of the post-office, mail coaches, carts, or carriages, at such places, at such times, on such days, and subject to such regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, as the Postmaster-General shall from time to time reasonably direct or appoint, as hereinbefore provided, or shall not obey, observe, and perform all such regulations respecting the conveyance of the mails and post letter bags, mail coaches, carts, and carriages on any such railways as the Postmaster-General or such officer of the post-office as he shall nominate in that behalf, shall make for the purposes aforesaid, then and in any such case the company of proprietors who, or whose officer, servant, or agent, shall so offend in the premises, shall for every such offence forfeit and pay a sum not exceeding twenty pounds; provided nevertheless, that the payment of or liability to such penalty shall not in any manner lessen or affect the liability of any such company under any bond which may have been given by them under the provisions hereinafter contained.

Company to give security by bond when required

13. And be it enacted, That it shall be lawful for the Postmaster-General, if he shall so think fit, to require the company of proprietors of any railway already made or in progress, or to be hereafter made within the United Kingdom, to give security by bond to her Majesty, her heirs

and successors, conditioned to be void if such company shall from time to time carry or convey, or cause to be carried or conveyed, all such mails or post letter bags, mail guards, and other officers of the post-office, mail coaches, carts, and carriages in manner hereinbefore mentioned, when thereunto required by the Postmaster-General, or any officer of the post-office duly authorized for that purpose, and shall receive, take up, deliver, and leave all such mails or post letter bags, guards and officers, mail coaches, carts, and carriages, at such places, at such times, on such days, and subject to such regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, as hereinbefore mentioned, and shall obey, observe, and perform all such regulations respecting the same as the Postmaster-General shall reasonably make, and shall well and truly do and perform, and cause to be done and performed, all such other acts, matters, and things, as by this Act are required or directed to be done or performed by or on the part or behalf of such company, their officers, servants, and agents; and every such bond shall be taken in such sum and in such form as the Postmaster-General shall think proper; and every such security shall be renewed from time to time whenever and so often as such bond shall be forfeited, and also whenever and so often as the Postmaster-General shall in his discretion require the same to be renewed; and if any company of proprietors of any such railway as aforesaid shall, when so required as aforesaid, refuse or neglect, for the space of one calendar month next after the delivery of any notice for such purpose to them given by or from the Postmaster-General, to execute to her Majesty, her heirs and successors, such bond to the effect and in manner aforesaid, or shall at any time refuse or neglect to renew such bond whenever and so often as the same shall, by or in pursuance of this Act, be required to be renewed, such company of proprietors shall forfeit one hundred pounds for every day during the period for which there shall be any refusal, neglect, or default to give or renew such security as aforesaid, after the expiration of the said one calendar month.

*Conveyance
of Mails.*

Such security to be renewed from time to time.

14. Provided always, and be it enacted, That in all cases in which any railway or part of a railway may, previous to the passing of this Act, have been demised or let by the company of proprietors thereof, the body corporate or company, or other persons to whom the same shall have been so demised or let, their successors, executors, administrators, or assigns, shall during the continuance of such lease be liable to all the provisions of this Act for or in respect of such railway or part of a railway, in lieu of 1000*l*.

Lessees not being a body corporate or company not to be required to give security above

Conveyance of Mails. such company of proprietors, but so that such lessees, (not being a body corporate or company,) their executors, administrators, or assigns, shall not be required in respect of any such railway or part of a railway to give security under the foregoing enactment to any amount in any one bond exceeding the sum of one thousand pounds, and shall not in any one year be liable in damages to be recovered upon any bonds which they may have given to any amount exceeding the sum of one thousand pounds and costs of suit.

Service of notices.

15. And be it enacted, That all notices under the provisions of this Act by or on behalf of the Postmaster-General to any company of proprietors of any railway as aforesaid, shall be considered as duly served on any company of proprietors in case the same shall be given or delivered to any one or more of the directors of such company, or to the secretary or clerk of such company, or be left at any station belonging to such company.

Differences between Postmaster General and company to be settled by arbitration.

16. And be it enacted, That in all cases in which the Postmaster-General and any company of proprietors of any railway shall not be able to agree on the amount of remuneration or compensation to be paid by the Postmaster-General to such company of proprietors for any services performed or to be performed by them as hereinbefore mentioned, the same shall be referred to the award of two persons, one to be named by the Postmaster-General, and the other by such company; and if such two persons cannot agree on the amount of such remuneration or compensation, then to the umpirage of some third person, to be appointed by such two first-named persons previously to their entering upon the inquiry; and the said award or umpirage, as the case may be, shall be binding and conclusive on the said parties, and their respective successors and assigns.

After contracts have existed three years, company may refer them to arbitrators to decide as to their continuance.

17. And be it enacted, That after any contract entered into or award made under the authority of this Act shall have continued in operation for a period of three years, it shall be competent for any railway company who may consider themselves aggrieved by the terms of remuneration fixed by such contract or award, by notice under their common seal, to require that it shall be referred to arbitrators to determine whether any and what alteration ought to be made therein; and thereupon such arbitrators or umpire to be appointed as hereinbefore mentioned shall proceed to inquire into the circumstances, and make their award therein, as in the case of an original agreement: Provided always, that the services performed by such railway company for the post-office shall in nowise be interrupted or impeded thereby.

18. And be it enacted, That in all references to be made under the authority of this act, the Postmaster-General, or the railway company, as the case may be, shall nominate his or their arbitrator within fourteen days after notice from the other party, or in default it shall be lawful for the arbitrator appointed by the party giving notice to name the other arbitrator; and such arbitrators shall proceed forthwith in the reference, and make their award therein within twenty-eight days after their appointment, or otherwise the matter shall be left to be determined by the umpire; and if such umpire shall refuse or neglect to proceed and make his award for the space of twenty-eight days after the matter shall have been referred to him, then a new umpire shall be appointed by the two first-named arbitrators, who shall in like manner proceed and make his award within twenty-eight days, or in default be superseded, and so "toties quoties."

*Conveyance
of Mails.*

Arbitrators
to be nomi-
nated with-
in 14 days
after notice.

19. And be it enacted, That whenever the term "company of proprietors," or "railway company," or "company" is used in this act, the same shall extend to and be construed to include the proprietors for the time being of any railway, whether a body corporate or individuals, and also (during the continuance of any demise or lease as aforesaid) any person, whether a body corporate or company or individuals, to whom any railway or part of a railway may previous to the passing of this act have been demised or let, and their successors, executors, administrators, and assigns, unless the subject or context be otherwise repugnant to such construction; and that the provisions of this act shall be construed according to the respective interpretations of the terms and expressions contained in an act passed in the first year of the reign of her present Majesty, intituled "An Act for consolidating the laws relative to Offences against the Post-office of the United Kingdom, and for regulating the judicial administration of the Post-office Laws, and for explaining certain terms and expressions employed in those laws," so far as those interpretations are not repugnant to the subject or inconsistent with the context of such provisions; and that this present act shall be deemed and construed to be a post-office act within the intent and meaning of the said last-mentioned act; and the pecuniary penalties hereby imposed shall be recovered and recoverable in the manner and form therein particularly mentioned and expressed with reference to the pecuniary penalties imposed by the post-office acts: Provided nevertheless, that any justice of the peace having jurisdiction for any county through which any railway shall pass, in respect of which any penalty or forfeiture under this act shall have been in-

*Interpreta-
tion of
Words.*

"Company
of Proprie-
tors,"
"Railway
Company,"
"Company"

and accord-
ing to the
1 Vict.c. 36.

Proviso.

Conveyance of Mails. — curred, shall and may hear and determine any offence against this act which may subject any company to a pecuniary penalty not exceeding twenty pounds; and a summons issued under the post-office acts by any such justice against any railway company for the recovery of any such penalty shall be deemed to be sufficiently served in case either the summons or a copy thereof be delivered to any officer, servant, or agent of such company, or be left at any station belonging to such company.

Act may be amended or repealed.

20. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of Parliament.

3 & 4 VICT. cap. 97.

An Act for regulating Railways.

[10th August, 1840.]

Preamble. WHEREAS it is expedient for the safety of the public to provide for the due supervision of railways:

Opening of Railways. — 1. Be it therefore enacted, by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, *That, after two months from the passing of this act, no railway, or portion of any railway, shall be opened for the public conveyance of passengers or goods until one calendar month after notice in writing of the intention of opening the same shall have been given by the company to whom such railway shall belong, to the lords of the committee of her Majesty's privy council appointed for trade and foreign plantations.*

Repealed by 5 & 6 Vict. c. 55, s. 3. 2. And be it enacted, *That if any railway, or portion of any railway, shall be opened without due notice as aforesaid, the company to whom such railway shall belong shall forfeit to her Majesty the sum of twenty pounds for every day during which the same shall continue open, until the expiration of one calendar month after the company shall have given the like notice as is hereinbefore required before the opening of the railway; and any such penalty may be recovered in any of her Majesty's courts of record.*

Returns to be made by Company. — 3. And be it enacted, That the lords of the said committee may order and direct every railway company to make up and deliver to them returns, according to a form to be provided by the lords of the said committee, of the

aggregate traffic in passengers, according to the several classes, and of the aggregate traffic in cattle and goods respectively, on the said railway, as well as of all accidents which shall have occurred thereon attended with personal injury, and also a table of all tolls, rates, and charges from time to time levied on each class passengers, and on cattle and goods, conveyed on the said railway; and if the returns herein specified shall not be delivered within thirty days after the same shall have been required, every such company shall forfeit to her Majesty the sum of twenty pounds for every day during which the said company shall wilfully neglect to deliver the same; and every such penalty may be recovered in any of her Majesty's courts of record: Provided always, that such returns shall be required, in like manner and at the same time, from all the said companies, unless the lords of the said committee shall specially exempt any of the said companies, and shall enter the grounds of such exemption in the minutes of their proceedings.

4. And be it enacted, That every officer of any company who shall wilfully make any false return to the lords of the said committee shall be deemed guilty of a misdemeanor.

5. And be it enacted, That it shall be lawful for the lords of the said committee, if and when they shall think fit, to authorize any proper person or persons to inspect any railway; and it shall be lawful for every person so authorized, at all reasonable times, upon producing his authority, if required, to enter upon and examine the said railway, and the stations, works, and buildings, and the engines and carriages belonging thereto: *Provided always, that no person shall be eligible to the appointment as inspector as aforesaid who shall within one year of his appointment have been a director or have held any office of trust or profit under any railway company.*

6. And be it enacted, That every person wilfully obstructing any person, duly authorized as aforesaid, in the execution of his duty, shall, on conviction before a justice of the peace having jurisdiction in the place where the offence shall have been committed, forfeit and pay for every such offence any sum not exceeding ten pounds; and on default of payment of any penalty so adjudged, immediately or within such time as the said justice of the peace shall appoint, the same justice, or any other justice having jurisdiction in the place where the offender shall be or reside, may commit the offender to prison for any period not exceeding three calendar months; such commitment to be determined on payment of the amount of the penalty; and every such penalty shall be returned to

Board of Trade may require returns of traffic and accidents, and a table of tolls.

Penalty for making false returns.

Inspectors of Railways.

—
Appointment of, by Board of Trade.

Repealed by 7 & 8 Vict. c. 85, s. 15

Penalty for obstructing inspector.

the next ensuing Court of Quarter Sessions in the usual manner.

Bye-Laws.

made
before the
passing of
this act, to
be laid be-
fore Board
of Trade,

otherwise
to be void.

7. And whereas many railway companies are or may hereafter be empowered by act of parliament to make bye-laws, orders, rules, or regulations, and to impose penalties for the enforcement thereof, upon persons other than the servants of the said companies, and it is expedient that such powers should be under proper control; be it enacted, That true copies of all such bye-laws, orders, rules, and regulations made under any such powers by every such company before the passing of this act, certified in such manner as the lords of the said committee shall from time to time direct, shall, within two calendar months after the passing of this act, be laid before the lords of the said committee; and that every such bye-law, order, rule, or regulation, not so laid before the lords of the said committee within the aforesaid period, shall, from and after that period, cease to have any force or effect, saving in so far as any penalty may have been then already incurred under the same.

Bye-laws
hereafter
made to be
approved of
by Board of
Trade.

8. And be it enacted, That no such bye-law, order, rule, or regulation made under any such power, and which shall not be in force at the time of the passing of this act, and no order, rule, or regulation annulling any such existing bye-law, rule, order, or regulation which shall be made after the passing of this act, shall have any force or effect until two calendar months after a true copy of such bye-law, order, rule, or regulation, certified as aforesaid, shall have been laid before the lords of the said committee, unless the lords of the said committee shall, before such period, signify their approbation thereof.

Board of
Trade may
disallow
bye-laws.

9. And be it enacted, That it shall be lawful for the lords of the said committee, at any time either before or after any bye-law, order, rule, or regulation shall have been laid before them as aforesaid shall have come into operation, to notify to the company who shall have made the same their disallowance thereof, and, in case the same shall be in force at the time of such disallowance, the time at which the same shall cease to be in force; and no bye-law, order, rule, or regulation which shall be so disallowed shall have any force or effect whatsoever, or, if it shall be in force at the time of such disallowance, it shall cease to have any force or effect at the time limited in the notice of such disallowance, saving in so far as any penalty may have been then already incurred under the same.

Provisions
requiring
confirma-

10. And be it enacted, That so much of every clause, provision, and enactment in any act of parliament heretofore passed as may require the approval or concurrence

of any justice of the peace, court of quarter sessions, or other person or persons, other than members of the said companies, to give validity to any bye-laws, orders, rules, or regulations made by any such company, shall be repealed.

11. *And be it enacted, That whenever it shall appear to the lords of the said committee that any of the provisions of the several acts of parliament regulating any of the said companies, or the provisions of this act, have not been complied with on the part of any of the said companies, or any of their officers, and that it would be for the public advantage that the due performance of the same should be enforced, the lords of the said committee shall certify the same to her Majesty's Attorney-General for England, or Ireland, or to the Lord-Advocate for Scotland, as the case may require; and thereupon the said Attorney-General or Lord-Advocate shall, by information, or by action, bill, plaint, suit at law or in equity, or other legal proceeding, as the case may require, proceed to recover such penalties and forfeitures, or otherwise to enforce the due performance of the said provisions, by such means as any person aggrieved by such non-compliance, or otherwise authorized to sue for such penalties, might employ under the provisions of the said acts: provided always, that no such certificate as aforesaid shall be given by the lords of the said committee until twenty-one days after they shall have given notice of their intention to give the same to the company against or in relation to whom they shall intend to give the same.*

Prosecutions to enforce provisions of railway acts.

Repealed by
7 & 8 Vict.
c. 85, s. 16.

12. *And be it enacted, That no legal proceedings shall be commenced under the authority of the lords of the said committee against any railway company for any offence against this act, or any of the several acts of parliament relating to railways, except upon such certificate of the lords of the said committee as aforesaid, and within one year after such offence shall have been committed.*

Amended
by 7 & 8
Vict. c. 85,
s. 18.

13. *And be it enacted, That it shall be lawful for any officer or agent of any railway company, or for any special constable duly appointed, and all such persons as they may call to their assistance, to seize and detain any engine driver, guard, porter, or other servant in the employ of such company who shall be found drunk while employed upon the railway, or commit any offence against any of the bye-laws, rules, or regulations of such company, or shall wilfully, maliciously, or negligently do or omit to do any act whereby the life or limb of any person passing along or being upon the railway belonging to such company, or the works thereof respectively, shall be or might be injured or endangered, or whereby the passage of any of the engines, carriages, or trains shall be or might be obstructed or im-*

Railway servants guilty of misconduct.

Amended
by 5 & 6
Vict. c. 55,
s. 17.

Railway servants guilty of misconduct.

peded, and to convey such engine driver, guard, porter, or other servant so offending, or any person counselling, aiding, or assisting in such offence, with all convenient despatch, before some justice of the peace for the place within which such offence shall be committed, without any other warrant or authority than this act; and every such person so offending, and every person counselling, aiding, or assisting therein as aforesaid, shall, when convicted before such justice as aforesaid, (who is hereby authorized and required, upon complaint to him made, upon oath, without information in writing, to take cognizance thereof, and to act summarily in the premises,) in the discretion of such justice, be imprisoned, with or without hard labour, for any term not exceeding two calendar months, or, in the like discretion of such justice, shall for every such offence forfeit to her Majesty any sum not exceeding ten pounds, and in default of payment thereof shall be imprisoned, with or without hard labour as aforesaid, for such period, not exceeding two calendar months, as such justice shall appoint; such commitment to be determined on payment of the amount of the penalty; and every such penalty shall be returned to the next ensuing court of quarter sessions in the usual manner.

Justice may send any case to be tried at the quarter sessions.

14. Provided always, and be it enacted, That (if upon the hearing of any such complaint he shall think fit) it shall be lawful for such justice, instead of deciding upon the matter of complaint summarily, to commit the person or persons charged with such offence for trial for the same at the quarter sessions for the county or place wherein such offence shall have been committed, and to order that any such person so committed shall be imprisoned and detained in any of her Majesty's gaols or houses of correction in the said county or place in the meantime, or to take bail for his appearance, with or without sureties, in his discretion; and every such person so offending, and convicted before such court of quarter sessions as aforesaid (which said court is hereby required to take cognizance of and hear and determine such complaint), shall be liable, in the discretion of such court, to be imprisoned, with or without hard labour, for any term not exceeding two years.

Obstructions.

Punishment of persons obstructing engines or carriages.

15. And be it enacted, That from and after the passing of this act every person who shall wilfully do or cause to be done anything in such manner as to obstruct any engine or carriage using any railway, or to endanger the safety of persons conveyed in or upon the same, or shall aid or assist therein, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court before which he shall have been convicted, to be imprisoned, with or without hard labour, for any term not exceeding two years.

16. And be it enacted, That if any person shall wilfully obstruct or impede any officer or agent of any railway company in the execution of his duty upon any railway, or upon or in any of the stations or other works or premises connected therewith, or if any person shall wilfully trespass upon any railway, or any of the stations or other works or premises connected therewith, and shall refuse to quit the same upon request to him made by any officer or agent of the said company, every such person so offending, and all others aiding or assisting therein, shall and may be seized and detained by any such officer or agent, or any person whom he may call to his assistance, until such offender or offenders can be conveniently taken before some justice of the peace for the county or place wherein such offence shall be committed, and when convicted before such justice as aforesaid (who is hereby authorized and required, upon complaint to him upon oath, to take cognizance thereof, and to act summarily in the premises), shall, in the discretion of such justice, forfeit to her Majesty any sum not exceeding five pounds, and in default of payment thereof shall or may be imprisoned for any term not exceeding two calendar months, such imprisonment to be determined on payment of the amount of the penalty.

Obstruc-
tions.Punish-
ment of
persons ob-
structing
officers of
railway, or
trespassing.

17. And be it enacted, That no proceeding to be had and taken in pursuance of this act shall be quashed or vacated for want of form, or be removed by certiorari, or by any other writ or process whatsoever, into any of her Majesty's courts of record at Westminster or elsewhere, any law or statute to the contrary notwithstanding.

Proceed-
ings not to
be quashed
for want of
form, &c.

18. And whereas many railway companies are bound, by the provisions of the acts of parliament by which they are incorporated or regulated, to make, at the expense of the owner or occupier of lands adjoining the railway, openings in the ledges or flanches thereof (except at certain places on such railway in the said acts specified), for effecting communications between such railway and any collateral or branch railway to be laid down over such lands, and any disagreement or difference which shall arise as to the proper places for making any such openings in the ledges or flanches is by such acts directed to be referred to the decision of any two justices of the peace within their respective jurisdictions: and whereas it is expedient that so much of every clause, provision, and enactment in any act of parliament heretofore passed, as gives to any justice or justices the power of hearing or deciding upon any such disagreement or difference as to the proper places for any such openings in the ledges or flanches of any railway, should be repealed; be it there-

Branch
Railways.Repeal of
provisions
in railway
acts em-
powering
justices to
decide dis-
putes.

*Branch
Railways.*

fore enacted, That so much of every such clause, provision, and enactment as aforesaid shall be repealed.

Board of
Trade to de-
termine
such dis-
putes in
future.

19. And be it enacted, That in case any disagreement or difference shall arise between any such owner or occupier or other persons, and any railway company, as to the proper places for any such openings in the ledges or flanches of any railway (except at such places as aforesaid), for the purpose of such communication, then the same shall be left to the decision of the lords of the said committee, who are hereby empowered to hear and determine the same in such way as they shall think fit, and their determination shall be binding on all parties.

*Service of
notices.*

to Board of
Trade,

20. And be it enacted, That all notices, returns, and other documents required by this act to be given to or laid before the lords of the said committee, shall be delivered at or sent by the post to the office of the lords of the said committee; and all notices, appointments, requisitions, certificates, or other documents in writing, signed by one of the secretaries of the said committee, or by some officer appointed for that purpose by the lords of the said committee, and purporting to be made by the lords of the said committee, shall, for the purposes of this act, be deemed to have been made by the lords of the said committee; and service of the same upon any one or more of the directors of any railway company, or on the secretary or clerk of the said company, or by leaving the same with the clerk or officer at one of the stations belonging to the said company, shall be deemed good service upon the said company.

on com-
pany.

*Interpreta-
tion of
words.*

“Railway.”

“Company”

21. And be it enacted, That wherever the word “railway” is used in this act it shall be construed to extend to all railways constructed under the powers of any act of parliament, and intended for the conveyance of passengers in or upon carriages drawn or impelled by the power of steam or by any other mechanical power; and wherever the word “company” is used in this act, it shall be construed to extend to and include the proprietors for the time being of any such railway, whether a body corporate or individuals, and their lessees, executors, administrators, and assigns, unless the subject or context be repugnant to such construction.

Act may be
amended or
repealed.

22. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of parliament.

5 & 6 VICT. cap. 55.

*An Act for the better Regulation of Railways,
and for the Conveyance of Troops.*

[30th July, 1842.]

WHEREAS by an Act passed in the third and fourth years of the reign of her present Majesty, intituled, "*An Act for Regulating Railways*," provision was made for the supervision of railways: and whereas it is expedient for the safety of the public to make further provision for that purpose;

1. Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That this act shall come into operation on the passing thereof.

2. And be it enacted, That the provisions of the said recited act and of this act shall be construed together as one act, except so far as the provisions of the said recited act are hereby repealed, or shall be inconsistent with the provisions of this act.

3. And whereas by the said recited act it is enacted, that after two months from the passing of the said recited act no railway, or portion of any railway, shall be opened for the public conveyance of passengers or goods until one calendar month after notice in writing of the intention of opening the same shall have been given, by the company to whom such railway shall belong, to the lords of the committee of her Majesty's privy council appointed for trade and foreign plantations: and whereas by the said recited act it is also enacted, that if any railway or portion of any railway shall be opened without due notice as aforesaid, the company to whom such railway shall belong shall forfeit to her Majesty the sum of twenty pounds for every day during which the same shall continue open, until the expiration of one calendar month after the company shall have given the like notice as is hereinbefore required before the opening of the railway, and any such penalty may be recovered in any of her Majesty's courts of record; be it enacted, That the said recited provisions of the said act shall be and they are hereby repealed.

4. And be it enacted, That no railway or portion of any railway shall be opened for the public conveyance of passengers until one calendar month after notice in writing of the intention of opening the same shall have been given,

Preamble
3 & 4 Vict.
c. 97.

Commence-
ment of this
act.

3 & 4 Vict.
c. 97, & this
act to be
construed
together.

Opening of
railways.

Repeal of
3 & 4 Vict.
c. 97, s. 1
and 2.

Notice of
intended
opening to
be given

Opening of railways. by the company to whom such railway shall belong, to the lords of the committee of her Majesty's privy council appointed for trade and foreign plantations, and until ten days after notice in writing shall have been given by the said company to the lords of the said committee of the time when the said railway or portion of railway will be, in their opinion, sufficiently completed for the safe conveyance of passengers, and ready for inspection.

to Board
of Trade.

Penalty for
opening
without
notice.

5. And be it enacted, That if any railway or portion of any railway shall be opened without such notice as aforesaid, the company to whom such railway shall belong shall forfeit to her Majesty the sum of twenty pounds for every day during which the same shall continue open until the said notices shall have been duly given and shall have expired; and every such penalty may be recovered in any of her Majesty's courts of record, or in the court of session, or in any of the sheriffs' courts in Scotland.

Board of
Trade may
postpone
the opening
if inspector
report that
the same
would be
attended
with
danger.

6. And be it enacted, That if the officer or officers appointed by the lords of the said committee to inspect any such railway or portion of railway shall, after inspection thereof, report in writing to the lords of the said committee that, in his or their opinion, the opening of the same would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of the establishment for working such railway, together with the grounds of such opinion, it shall be lawful for the lords of the said committee, and so from time to time, as often as such officers shall after further inspection thereof so report, to order and direct the company to whom such railway shall belong to postpone such opening for any period not exceeding one calendar month at any one time, until it shall appear to the lords of the said committee that such opening may take place without danger to the public; and if any such railway, or any portion thereof, shall be opened contrary to any such order and direction of the lords of the said committee, the company to whom such railway shall belong shall forfeit to her Majesty the sum of twenty pounds for every day during which the same shall continue open contrary to such order and direction; and any such penalty may be recovered in any of her Majesty's courts of record, or in the court of session, or in any of the sheriffs' courts in Scotland: provided always, that no such order as aforesaid shall be binding upon any railway company unless therewith shall be delivered to the said company a copy of the report of the officer or officers on which such order shall be founded.

Proviso.

7. And be it enacted, That every railway company shall, within forty-eight hours after the occurrence upon the railway belonging to such company of any accident attended with serious personal injury to the public using the same, give notice thereof to the lords of the said committee; and if any company shall wilfully omit to give such notice, every such company shall forfeit to her Majesty the sum of five pounds for every day during which the omission to give the same shall continue; and every such penalty may be recovered in any of her Majesty's courts of record, or in the court of session, or in any of the sheriffs' courts in Scotland.

Accidents.

—
when attended with personal injury, notice of, to be given to Board of Trade.

8. And be it enacted, That the lords of the said committee may order and direct any railway company to make up and deliver to them returns of serious accidents occurring in the course of the public traffic upon the railway belonging to such company, whether attended with personal injury or not, in such form and manner as the lords of the said committee shall deem necessary and require for their information with a view to the public safety; and if any such returns shall not be so delivered within fourteen days after the same shall have been required, every such company shall forfeit to her Majesty the sum of five pounds for every day during which the said company shall neglect to deliver the same; and every such penalty may be recovered in any of her Majesty's courts of record, or in the courts of session or in any of the sheriffs' courts in Scotland: provided always, that all such returns shall be privileged communications, and shall not be evidence in any court whatsoever.

Board of Trade may direct returns of accidents, whether attended with personal injury or not.

Proviso.

9. And whereas by an Act passed in the second and third years of her present Majesty, and intituled, "An Act to amend an Act of the fifth and sixth years of his late Majesty King William the Fourth relating to Highways," it was enacted, that whenever a railway crosses or shall hereafter cross any turnpike road, or any other highway or statute labour road for carts or carriages in Great Britain, the proprietors or directors of the said railway shall make and maintain good and sufficient gates across each end of such turnpike or other road at each end of the said crossings, and shall employ good and proper persons to open and shut such gates, so that the persons, carts, or carriages passing along such turnpike or other road shall not be exposed to any danger or damage by the passing of any carriages or engines along the said railway: and whereas by the acts relating to certain railways it is provided that such gates shall be kept constantly closed across the railway except during the time when carriages or engines passing along the railway shall have to cross

Gates at level crossings.

—
2 & 3 Vict.
c. 45, s. 1.

Gates at level crossings.

Gates to be kept closed across the road.

Board of Trade may order that gates be kept closed across the railway.

Fences.

Company to erect and maintain throughout the whole of the line.

Disputes between connecting railways

to be decided by the Board of Trade.

such turnpike or other road : and whereas experience has shown that it is more conducive to safety that such gates should be kept closed across the turnpike or other road instead of across the railway ; be it therefore enacted, That, notwithstanding anything to the contrary contained in any act of parliament heretofore passed, such gates shall be kept constantly closed across each end of such turnpike or other roads, in lieu of across the railway, except during the time when horses, cattle, carts, or carriages passing along such turnpike or other road shall have to cross such railway ; and such gates shall be of such dimensions and so constructed as, when closed across the ends of such turnpike or other roads, to fence in the railway, and prevent cattle or horses passing along the road from entering upon the railway while the gates are closed : provided always, that it shall be lawful for the lords of the said committee, in any case in which they are satisfied that it will be more conducive for the public safety that the gates at any level crossing over any such turnpike or other road should be kept closed across the railway, to order and direct that such gates shall be kept so closed, instead of across the road ; and such order of the lords of the said committee shall be a sufficient authority for the directors or proprietors of any railway company to whom such order is addressed for keeping such gates closed, in the manner directed by the lords of the said committee.

10. And whereas it is expedient that further provision be made for the safety of the public in respect of the fences of railways ; be it enacted, That all railway companies shall be under the same liability of obligation to erect, and to maintain and repair, good and sufficient fences throughout the whole of their respective lines, as they would have been if every part of such fences had been originally ordered to be made under an order of justices by virtue of the provisions to that effect in the acts of parliament relating to such railways respectively.

11. And be it enacted, That where two or more railway companies whose railways have a common terminus or a portion of the same line of rails in common, or which form separate portions of one continued line of railway communication, shall not be able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, it shall be lawful for the lords of the said committee, upon the application of either of the parties, to decide the questions in dispute between them, so far as the same relate to the safety of the public, and to order and determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne

by either of the parties respectively; and if any railway company shall refuse or wilfully neglect to obey any such order made upon or against such company by the lords of the said committee pursuant to this provision, such company shall forfeit to her Majesty the sum of twenty pounds per day for every day during which such refusal or neglect shall continue; and every such penalty may be recovered in any of her Majesty's courts of record, or in the court of session or in any of the sheriffs courts in Scotland.

*Disputes
between
connect-
ing rail-
ways.*

12. And whereas powers of laying down branch lines opening into the ledges or flanches of main lines of railway, and of entering upon and passing along such main lines with carriages and waggons drawn by locomotive engines, or by other mechanical or animal power, and also powers to form roads or railways across existing railways on a level, have been given by various acts relative to railways to the owners or occupiers of lands adjoining the railway, and to other persons with their consent: and whereas experience has shown that the exercise of such powers without limitation would in many cases be attended with danger to the public using such railway; be it therefore enacted, That if, in the case of any railway on which passengers are conveyed by steam or other mechanical power, it shall appear to the lords of the said committee that such power as aforesaid cannot be so exercised without seriously endangering the public safety, and that an arrangement may be made with a due regard to existing rights of property, it shall be lawful for the lords of the said committee to order and direct that such powers shall only be exercised subject to such conditions as the lords of the said committee shall direct: provided always, that no railway shall be considered a passenger railway if two-thirds or more of the gross annual revenue of such railway shall be derived from the carriage thereon of coals, ironstone, or other metals or minerals.

*Branch
Railways.*

Powers of making, to be regulated by the Board of Trade.

A passenger railway defined.

13. And whereas in many cases railways have been made to cross turnpike roads, highways, and private roads and tramways on the level, and the companies to whom such railways belong would in some cases be willing, at their own expense, to carry such roads and tramways over or under such railways by means of a bridge or archway for the greater safety of the public, but have no authority so to do: and whereas it would promote the public safety if railway companies were enabled, under the sanction and authority of the lords of the said committee, to substitute bridges or archways for such level crossings as aforesaid; be it therefore enacted, That in all cases where any railway company shall be willing, at their own expense, to carry any turnpike road,

*Alteration
of level
crossings.*

Board of Trade may authorize company to carry roads over or under railway.

*Alteration
of level
crossings.*

highway, or private road or tramway over or under their railway by means of a bridge or arch in lieu of crossing the same on the level, it shall be lawful for the lords of the said committee, on the application of the said company, and after hearing the several parties interested, if it shall appear to the lords of the said committee that such level crossing endangers the public safety, and that the proposal of the company does not involve any violation of existing rights or interests without adequate compensation, to give the said company full power and authority for removing the danger at their own expense, either by building a bridge, or by such other arrangement as the nature of the case shall require, subject to such conditions as the lords of the said committee shall direct.

*Entry upon
adjoining
lands.*

Board of
Trade may
authorize
company to
enter upon
adjoining
lands, to re-
pair or pre-
vent acci-
dents.

14. And whereas it is essential for the public safety, and also for the proper maintenance of railways in a state of efficiency for the public service, that railway companies should have the power, in case of accidents or slips happening or being apprehended to their cuttings and embankments or other works, to enter upon the lands adjoining their respective railways, for the purpose of repairing or renewing the same, and to do such works as may be necessary for the purpose; be it therefore enacted, That it shall be lawful for the lords of the said committee to empower any railway company, in case of any accident or slip happening or being apprehended to any cutting, embankment, or other work belonging to them, to enter upon any lands adjoining their railway for the purpose of repairing or preventing such accident, and to do such works as may be necessary for the purpose: provided always, that in case of necessity it shall be lawful for any railway company to enter upon such lands and do such works as aforesaid, without having obtained the previous sanction of the lords of the said committee; but in every such case such railway company shall, within forty-eight hours after such entry, make a report to the lords of the said committee, specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the lords of the said committee shall, after considering the said report, certify that their exercise is not necessary for the public safety: provided also, that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed with all possible despatch; and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall

Compensa-
tion to own-
ers and
occupiers.

be settled in the same manner as cases of disputed compensation are directed to be settled by the acts relating to the railway on which such works may become necessary: provided always, that no land shall be taken permanently by any railway company for such works without a certificate from the lords of the said committee as hereinafter described.

Entry upon adjoining lands.

15. And whereas by various acts relating to railways compulsory powers are given to railway companies of purchasing and taking lands for the construction of such railways, and it is provided that such compulsory powers shall not be exercised after the expiration of certain limited periods from the passing of the said acts: and whereas it is

Compulsory powers of taking land.

sometimes found necessary for the public safety that additional land should be taken after the expiration of such periods for the purpose of giving increased width to the embankments and inclination to the slopes of railways, or for making approaches to bridges or archways, or for doing such works for the repair or prevention of accidents as are hereinbefore described; be it therefore enacted, That, in every case in which the lords of the said committee shall certify that the public safety requires additional land to be taken by any railway company for such purposes as aforesaid, the compulsory powers of purchasing and taking land contained in the act or acts of such railway company, together with all the clauses and provisions relative thereto, shall, as regards such portion or portions of land as are mentioned in the certificate of the lords of the said committee, revive and be in full force for such further period as shall be mentioned in such certificate:

Board of Trade may extend the, if thought necessary for safety.

provided always, that any railway company applying to the lords of the said committee for any such certificate shall give fourteen days' notice in writing, in the manner prescribed by the act or acts of such company for serving notices on land owners, of their intention to make such application to all the parties interested in such lands, or such of them as shall be known to the company, and shall state in such notice the particulars of the lands required; and if any of such parties interested shall apply within the said period of fourteen days to the lords of the said committee, such party shall be heard by them before any such certificate is given: provided also, that where any such application shall have been made by any railway company to the lords of the said committee, upon which application any such certificate shall have been refused, the directors of such railway company shall, if required by the lords of the said committee, repay to the party resisting such application any expenses which he or they may have incurred in resisting such application.

Company applying to Board of Trade to give notice to owners, and state particulars of lands required.

Carriages.

Repeal of provisions restricting weight of carriages to four tons,

may be used of a greater weight.

Railway servants guilty of misconduct.

Punishment of persons employed on railways guilty of misconduct.

See 3 & 4 Vict. c. 97, s. 13 & 14.

16. And whereas by various acts relating to railways it is enacted, that no carriage or waggon shall carry or bear at any one time upon the railway (including the weight of such carriage) more than four tons, and experience has shown that it is in many cases more conducive to safety to use a heavier description of carriage or waggon upon railways than was originally contemplated; be it therefore enacted, That every provision contained in any such act or acts respectively limiting the weight to be carried or borne at any one time in any carriage or waggon upon any railway (including the weight of such carriage or waggon) to four tons shall be and the same is hereby repealed, and that, notwithstanding any thing in any act contained, it shall be lawful for any railway company to use and to permit to be used upon any railway carriages or waggons carrying or bearing (including the weight of such carriage) a greater weight than four tons, subject to such regulations as may from time to time be made and be in force pursuant to any act or acts of parliament already or hereafter to be passed in that behalf.

17. And whereas by the said recited act for regulating railways provision is made for the punishment of servants of railway companies guilty of misconduct, and it is expedient to extend such provision; be it enacted, That it shall be lawful for any officer or agent of any railway company, or for any special constable duly appointed, and all such persons as they may call to their assistance, to seize and detain any engine driver, waggon driver, guard, porter, servant, or other person employed by the said or by any other railway company, or by any other company or person, in conducting traffic upon the railway belonging to the said company, or in repairing and maintaining the works of the said railway, who shall be found drunk while so employed upon the said railway, who shall commit any offence against any of the bye-laws, rules, or regulations of the said company, or who shall wilfully, maliciously, or negligently do or omit to do any act whereby the life or limb of any person passing along or being upon such railway or the works thereof respectively shall be or might be injured or endangered, or whereby the passage of any engines, carriages, or trains shall be or might be obstructed or impeded, and to convey such engine driver, guard, porter, servant, or other person so offending, or any person counselling, aiding, or assisting in such offence, with all convenient despatch before some justice of the peace for the place within which such offence shall be committed, without any other warrant or authority than this act; and every such person so offending, and every person counselling, aiding, or assisting therein, as aforesaid,

shall, when convicted upon the oath of one or more credible witness or witnesses before such justice as aforesaid, (who is hereby authorized and required, upon complaint to him made upon oath, without information in writing, to take cognizance thereof, and to act summarily in the premises,) in the discretion of such justice, be imprisoned, with or without hard labour, for any term not exceeding two calendar months, or, in the like discretion of such justice, shall for every such offence forfeit to her Majesty any sum not exceeding ten pounds, and in default of payment thereof shall be imprisoned, with or without hard labour, as aforesaid, for such period, not exceeding two calendar months, as such justice shall appoint, such commitment to be determined on payment of the amount of the penalty; and every such penalty shall be returned to the next ensuing court of quarter sessions in the usual manner.

*Railway
servants
guilty of
miscon-
duct.*

18. And be it enacted, That in all cases in which by the present or the said recited act for regulating railways it is provided that offenders shall be taken before one or more justices of the peace for the place within which the offence was committed, it shall be lawful, in case the offence is committed in Scotland, to take such offenders before the sheriff of the county, or other magistrate acting for the district within which such offence shall be committed, or where such offender shall be apprehended, without any warrant or authority other than this act; and such sheriff or magistrate is hereby empowered and required, on the application of the railway company, to proceed in all respects as if the words "sheriff or magistrate" had been substituted for the word "justice" in the said acts, and shall be entitled summarily, and without a jury, to execute the powers thereby and hereby committed to him.

*If offence
committed
in Scotland,
sheriffs to
have juris-
diction.*

19. And be it enacted, That all notices, returns, and other documents required by this act or by the said recited act to be given to or laid before the lords of the said committee shall be delivered at or sent by the post to the office of the lords of the said committee; and all notices, requisitions, orders, regulations, appointments, certificates, certified copies, and other documents in writing, signed by one of the secretaries of the said committee, or by some officer appointed for that purpose by the lords of the said committee, and purporting to be made by the lords of the said committee, shall, for the purposes of this and of the said recited act, be deemed to have been made by the lords of the said committee, and that in the absence of evidence to the contrary, without proof of the authority of the person signing the same or of the signature thereto;

*Service of
notices,
——
to Board of
Trade.*

Service of notices,
 —
on com-pany. and service of the same at one of the terminal offices of any railway company on the secretary or clerk of the said company, or by sending the same by post addressed to him at such office, shall be deemed good service upon the said company.

Convey-ance of military and police.
 —
Amended by 7 & 8 Vict. c. 85, s. 12. 20. *And be it enacted, That whenever it shall be necessary to move any of the officers or soldiers of her Majesty's forces of the line, ordnance corps, marines, militia, or the police force, by any railway, the directors thereof shall and are hereby required to permit such forces respectively, with their baggage, stores, arms, ammunition, and other necessities and things, to be conveyed at the usual hours of starting, at such prices or upon such conditions as may from time to time be contracted for between the secretary at war and such railway companies for the conveyance of such forces, on the production of a route or order for their conveyance signed by the proper authorities.*

Interpretation of words.
 —
"Railway."
"Company" 21. *And be it enacted, That whenever the word "railway" is used in this or in the said recited act it shall be construed to apply to all railways used or intended to be used for the conveyance of passengers in or upon carriages drawn or impelled by the power of steam or by any other mechanical power; and whenever the word "company" is used in this or in the said recited act it shall be construed to extend to and include the proprietors for the time being of any such railway, whether a body corporate or individuals, and their lessees, executors, administrators, and assigns, unless, in either of the above cases, the subject or context be repugnant to such construction.*

Application of penalties. 22. *And be it enacted, That all penalties under this act, for the application of which no special provision is made, shall be recovered in the name and for the use of her Majesty, in the manner provided by the said recited act for regulating railways.*

Act may be amended or repealed. 23. *And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of parliament.*

7 & 8 VICT. cap. 85.

An Act to attach certain Conditions to the Construction of Future Railways, authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament; and for other purposes in relation to Railways.

[9th August, 1844.]

WHEREAS it is expedient that the concession of powers for the establishment of new lines of railway should be subjected to such conditions as are hereinafter contained for the benefit of the public :

1. Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if at any time after the end of twenty-one years from and after the first day of January next after the passing of any act of the present or of any future session of parliament for the construction of any new line of passenger railway, whether such new line be a trunk, branch, or junction line, and whether such new line be constructed by a new company incorporated for the purpose or by any existing company, the clear annual profits divisible upon the subscribed and paid-up capital stock of the said railway, upon the average of the three then last preceding years, shall equal or exceed the rate of ten pounds for every hundred pounds of such paid-up capital stock, it shall be lawful for the lords commissioners of her Majesty's treasury, subject to the provisions hereinafter contained, upon giving to the said company three calendar months' notice in writing of their intention so to do, to revise the scale of tolls, fares, and charges limited by the act or acts relating to the said railway, and to fix such new scale of tolls, fares, and charges applicable to such different classes and kinds of passengers, goods, and other traffic on such railway, as in the judgment of the said lords commissioners, assuming the same quantities and kinds of traffic to continue, shall be likely to reduce the said divisible profits to the said rate of ten pounds in the hundred : provided always, that no such revised scale shall take effect, unless accompanied by a guarantee to subsist as long as any such revised scale of tolls, fares, and charges shall be in force, that the

Preamble.

Options of revision and purchase.

Treasury may revise the scale of tolls of future railways, and fix a new scale

Proviso.

Options of
revision
and pur-
chase.

Treasury
may pur-
chase
future rail-
ways.

Proviso.

Proviso

Options not
to be ap-
plied to ex-
isting rail-
ways.

Options not
to be exer-
cised by
treasury
until autho-
rized by
parliament.

said divisible profits, in case of any deficiency therein, shall be annually made good to the said rate of ten pounds for every hundred pounds of such capital stock : provided also, that such revised scale shall not be again revised or such guarantee withdrawn, otherwise than with the consent of the company, for the further period of twenty-one years.

2. And be it enacted, That whatever may be the rate of divisible profits on any such railway, it shall be lawful for the said lords commissioners, if they shall think fit, subject to the provisions hereinafter contained, at any time after the expiration of the said term of twenty-one years, to purchase any such railway, with all its hereditaments, stock, and appurtenances, in the name and on behalf of her Majesty, upon giving to the said company three calendar months' notice in writing of their intention, and upon payment of a sum equal to twenty-five years' purchase of the said annual divisible profits, estimated on the average of the three then next preceding years : provided that if the average rate of profits for the said three years shall be less than the rate of ten pounds in the hundred, it shall be lawful for the company, if they shall be of opinion that the said rate of twenty-five years' purchase of the said average profits is an inadequate rate of purchase of such railway, reference being had to the prospects thereof, to require that it shall be left to arbitration, in case of difference, to determine what (if any) additional amount of purchase money shall be paid to the said company : provided also, that such option of purchase shall not be exercised, except with the consent of the company, while any such revised scale of tolls, fares, and charges shall be in force.

3. Provided always, and be it enacted, That the option of revision or purchase shall not be applied to any railway made or authorized to be made by any act previous to the present session ; and that no branch or extension of less than five miles in length of any such line of railway shall be taken to be a new railway within the provisions of this act ; and that the said option of purchase shall not be exercised as regards any branch or extension of any railway, without including such railway in the purchase, in case the proprietors thereof shall require that the same be so included.

4. And whereas it is expedient that the policy of revision or purchase should in no manner be prejudged by the provisions of this act, but should remain for the future consideration of the legislature, upon grounds of general and national policy : and whereas it is not the intention of this act that under the said powers of revision or pur-

chase, if called into use, the public resources should be employed to sustain an undue competition against any independent company or companies; be it enacted, That no such notice as hereinbefore mentioned, whether of revision or purchase, shall be given until provision shall have been made by parliament, by an act or acts to be passed in that behalf, for authorizing the guarantee or the levy of the purchase money hereinbefore mentioned, as the case may be, and for determining, subject to the conditions hereinbefore mentioned, the manner in which the said options or either of them shall be exercised; and that no bill for giving powers to exercise the said options, or either of them, shall be received in either house of parliament unless it be recited in the preamble to such bill that three months' notice of the intention to apply to parliament for such powers has been given by the said lords commissioners to the company or companies to be affected thereby.

*Options of
revision
and pur-
chase.*

5. And be it enacted, That, from and after the commencement of the period of three years next preceding the period at which the option of revision or purchase becomes available, full and true accounts shall be kept of all sums of money received and paid on account of any railway within the provisions hereinbefore contained, (distinguishing, if the said railway shall be a branch railway or one worked in common with other railways, the receipts, and giving an estimate of the expenses on account of the said railway, from those on account of the trunk, line, or other railways,) by the directors of the company to whom such railway belongs or by whom the same may be worked; and every such railway company shall once in every half year, during the said period of three years, cause a half-yearly account in abstract to be prepared, showing the total receipt and expenditure on account of the said railway for the half-year ending the thirtieth day of June and the thirty-first day of December respectively, or such other convenient days as shall in each case be directed by the said lords commissioners, under distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified under the hands of two or more directors of the said railway company, and shall send a copy of the said account to the said lords commissioners on or before the last days of August and February respectively, or such other days as shall in each case be directed by the said lords commissioners, in each year; and it shall be lawful for the said lords commissioners, if and when they shall think fit, to appoint any proper person or persons to inspect the accounts and books of the said company during the said

*Companies
liable to the
options to
keep ac-
counts and
send copy
of balance-
sheet to the
Treasury.*

*Options of
revision
and pur-
chase.*

period of three years; and it shall be lawful for any person so authorized, at all reasonable times, upon producing his authority, to examine the books, accounts, vouchers, and other documents of the company at the principal office or place of business of the company, and to take copies or extracts therefrom.

*Cheap
Trains.*

Company to
provide one
cheap train
each way
daily.

6. And whereas it is expedient to secure to the poorer class of travellers the means of travelling by railway at moderate fares, and in carriages in which they may be protected from the weather; be it enacted, That on and after the several days hereinafter specified all passenger railway companies which shall have been incorporated by any act of the present session, or which shall be hereafter incorporated, or which by any act of the present or any future session have obtained or shall obtain, directly or indirectly, any extension or amendment of the powers conferred on them respectively by their previous acts, or have been or shall be authorized to do any act unauthorized by the provisions of such previous acts, shall, by means of one train at the least to travel along their railway from one end to the other of each trunk, branch, or junction line belonging to or leased by them, so long as they shall continue to carry other passengers over such trunk, branch, or junction line, once at the least each way on every week-day, except Christmas-day and Good Friday (such exception not to extend to Scotland), provide for the conveyance of third-class passengers to and from the terminal and other ordinary passenger stations of the railway, under the obligations contained in their several acts of parliament, and with the immunities applicable by law to carriers of passengers by railway; and also under the following conditions; (that is to say,)

Hours of
starting.

Such train shall start at an hour to be from time to time fixed by the directors, subject to the approval of the lords of the committee of privy council for trade and plantations;

Rate of
speed.

Such train shall travel at an average rate of speed not less than twelve miles an hour for the whole distance travelled on the railway, including stoppages:

Stoppages.

Such train shall, if required, take up and set down passengers at every passenger station which it shall pass on the line:

Carriages.

The carriages in which passengers shall be conveyed by such train shall be provided with seats, and shall be protected from the weather, in a manner satisfactory to the lords of the said committee:

Fares.

See 21 & 22
Vict. c. 75,
s. 1.

The fare or charge for each third-class passenger by such train shall not exceed one penny for each mile travelled:

Each passenger by such train shall be allowed to take with him half a hundred weight of luggage, not being merchandize or other articles carried for hire or profit, without extra charge; and any excess of luggage shall be charged by weight, at a rate not exceeding the lowest rate of charge for passengers' luggage by other trains:

*Cheap
Trains.*

—
Luggage.

Children under three years of age accompanying passengers by such train shall be taken without any charge, and children of three years and upwards, but under twelve years of age, at half the charge for an adult passenger:

Children.

And with respect to all railways subject to these obligations which shall be open on or before the first day of November next, these obligations shall come into force on the said first day of November; and with respect to all other railways subject to these obligations, they shall come into force on the day of opening of the railway, or the day after the last day of the session in which the act shall be passed by reason of which the company will become subject thereunto, which shall first happen.

When these
obligations
to com-
mence.

7. And be it enacted, That if any railway company shall refuse or wilfully neglect to comply with the provisions of this act as to the said cheap trains within a reasonable time, or shall attempt to evade the operation of such order, such company shall forfeit to her Majesty a sum not exceeding twenty pounds for every day during which such refusal, neglect, or evasion shall continue.

Penalty for
non-com-
pliance.

8. Provided always, and be it enacted, That, except as to the amount of fare or charge for each passenger by such cheap trains, which shall in no case exceed the rates hereinbefore in such case provided, the lords of the said committee shall have a discretionary power, upon the application of any railway company, of dispensing with any of the conditions hereinbefore required in regard to the conveyance of passengers by such cheap trains as aforesaid, in consideration of such other arrangements, either in regard to speed, covering from the weather, seats, or other particulars, as to the lords of the said committee shall appear more beneficial and convenient for the passengers by such cheap trains under the circumstances of the case, and shall be sanctioned by them accordingly; and any railway company which shall conform to such other conditions as shall be so sanctioned by the lords of the said committee shall not be liable to any penalty for not observing the conditions which shall have been so dispensed with by the lords of the said committee in regard to the said cheap trains and the passengers conveyed thereby.

Board of
Trade may
dispense
with condi-
tions here-
inbefore
required in
considera-
tion of other
arrange-
ments more
beneficial.

9. And be it enacted, That no tax shall be levied upon

No passen-

ger tax to be levied on receipts. the receipts of any railway company from the conveyance of passengers at fares not exceeding one penny for each mile by any such cheap train as aforesaid.

If company run trains on Sundays, cheap trains to be likewise provided. 10. And be it enacted, That whenever any railway company subject to the hereinbefore mentioned obligation of running cheap trains shall, from and after the days hereinbefore specified on which the said obligation is to accrue, run any train or trains on Sundays for the conveyance of passengers, it shall, under the obligations contained in its act or acts of parliament, and with the immunities applicable by law to carriers of passengers by railway, by such train each way, on every Sunday, as shall stop at the greatest number of stations, provide sufficient carriages for the conveyance of third class passengers at the terminal and other stations at which such Sunday train may ordinarily stop; and the fare or charge for each third class passenger by such train shall not exceed one penny for each mile travelled.

*Convey-
ance of
mails.*

See 1 & 2
Vict. c. 98.

Rate of
speed.

Mails by
trains other
than a mail
train.

11. And whereas by an act passed in the second year of the reign of her Majesty, intituled "An act to provide for the conveyance of the Mails by Railways," provision was made for the transmission of the mails by railway, and it is expedient that such provision should be extended, be it enacted, That it shall be lawful for the Postmaster-General to require, in the manner and subject to the conditions as to payment for service performed prescribed by the said act, that the mails be forwarded upon any such railway as is hereinbefore last mentioned at any rate of speed which the inspector-general of railways for the time being shall certify to be safe, not exceeding twenty-seven miles in the hour including stoppages; and it shall be also lawful for the Postmaster-General to send any mail guard with bags not exceeding the weight of luggage allowed to any other passenger (or subject to the general rules of the company for any excess of that weight) by any trains other than a mail train, upon the same conditions as any other passenger; provided that in such last-mentioned case nothing herein or in the last-recited act contained shall be construed to authorize the Postmaster-General to require the conversion of a regular mail train into an ordinary train, or to exercise any control over the company in respect of any ordinary train, nor shall the company be responsible for the safe custody or delivery of any mail bags so sent.

*Convey-
ance of
military
and police.*

12. And whereas by an act passed in the sixth year of the reign of her Majesty, intituled "An Act for the better regulation of Railways, and for the conveyance of Troops," it was among other things enacted, that whenever it shall be necessary to move any of the officers or soldiers of her

Majesty's forces of the line, ordnance corps, marines, militia, or the police force, by any railway, the directors thereof shall and are hereby required to permit such forces respectively, with their baggage, stores, arms, ammunition, and other necessaries and things, to be conveyed at the usual hours of starting, at such prices or upon such conditions as may from time to time be contracted for between the secretary at war and such railway companies for the conveyance of such forces, on the production of a route or order for their conveyance signed by the proper authorities: and whereas it is expedient to amend such provision in regard to the prices and conditions of conveyance by any new railway or any railway obtaining new powers from parliament; be it enacted, That all railway companies which have been or shall be incorporated by any act of the present or any future session, or which, by any act of the present or any future session shall have obtained or shall obtain any extension or amendment of the powers conferred by their previous acts or any of them, or have been or shall be authorized to do any act unauthorized by the provisions of such previous acts, shall be bound to provide such conveyance as aforesaid for the said military, marine, and police forces, at fares not exceeding twopence per mile for each commissioned officer proceeding on duty, such officer being entitled to conveyance in a first-class carriage, and not exceeding one penny for each mile for each soldier, marine, or private of the militia or police force, and also for each wife, widow, or child above twelve years of age of a soldier entitled by act of parliament or by competent authority to be sent to their destination at the public expense, children under three years of age so entitled being taken free of charge, and children of three years of age or upwards, but under twelve years of age, so entitled, being taken at half the price of an adult; and such soldiers, marines, and privates of the militia or police force, and their wives, widows, and children so entitled, being conveyed in carriages which shall be provided with seats, with sufficient space for the reasonable accommodation of the persons conveyed, and which shall be protected against the weather; provided that every officer conveyed shall be entitled to take with him one hundred weight of personal luggage without extra charge, and every soldier, marine, private, wife, or widow shall be entitled to take with him or her half a hundred weight of personal luggage without extra charge, all excess of the above weights of personal luggage being paid for at the rate of not more than one halfpenny per pound, and all public baggage, stores, arms, ammunition, and other necessaries and things, (except

*Convey-
ance of
military
and police.*

See 5 & 6
Vict. c. 55,
s. 20.

Prices and
conditions
of convey-
ance.

By the en-
try of Sea-
men Act, 16
& 17 Vict.
c. 69, s. 18,
naval
forces are
to be con-
veyed upon
the same
terms as
military
and police.

Carriages
to be pro-
vided with
seats and
protected
against the
weather.

*Convey-
ance of
military
and police.*

—

*Electrical
Tele-
graphs.*

—

*Company to
allow lines
to be esta-
blished.*

gunpowder and other combustible matters, which the company shall only be bound to convey at such prices and upon such conditions as may be from time to time contracted for between the secretary at war and the company,) shall be conveyed at charges not exceeding twopence per ton per mile, the assistance of the military or other forces being given in loading and unloading such goods.

13. And whereas electrical telegraphs have been established on certain railways, and may be more extensively established hereafter, and it is expedient to provide for their due regulation; be it enacted, That every railway company, on being required so to do by the lords of the said committee, shall be bound to allow any person or persons authorized by the lords of the said committee, with servants and workmen, at all reasonable times to enter into or upon their lands, and to establish and lay down upon such lands adjoining the line of such railway a line of electrical telegraph for her Majesty's service, and to give to him and them every reasonable facility for laying down the same, and for using the same for the purpose of receiving and sending messages on her Majesty's service, subject to such reasonable remuneration to the company as may be agreed upon between the company and the lords of the said committee, or, in case of disagreement, as may be settled by arbitration: provided always, that, subject to a prior right of use thereof for the purposes of her Majesty, such telegraph may be used by the company for the purposes of the railway, upon such terms as may be agreed upon between the parties, or, in the event of difference, as may be settled by arbitration.

*Lines esta-
blished by
private par-
ties to be
open to the
public.*

14. And be it enacted, That where a line of electrical telegraph shall have been established upon any railway by the company to whom such railway belongs, or by any company, partnership, person or persons, otherwise than exclusively for her Majesty's service, or exclusively for the purposes of the railway, or jointly for both, the use of such electrical telegraph, for the purpose of receiving and sending messages, shall, subject to the prior right of use thereof for the service of her Majesty and for the purposes of the company, and subject also to such equal charges and to such reasonable regulations as may be from time to time made by the said railway company, be open for the sending and receiving of messages by all persons alike, without favour or preference.

*Inspectors
of rail-
ways.*

15. And whereas by an act passed in the fourth year of the reign of her Majesty, intituled "An Act to regulate Railways," power is given to the lords of the said committee to appoint any proper person or persons to inspect any

railway, and the stations, works, and buildings, and the engines and carriages belonging thereto; and in order to carry the provisions of this act into execution it is expedient that the said power be extended; be it enacted, That the said power given to the lords of the said committee of appointing proper persons to inspect railways shall extend to authorize the appointment by the lords of the said committee of any proper person or persons, for such purposes of inspection as are by the said act authorized, and also for the purpose of enabling the lords of the said committee to carry the provisions of this and of the said act, and of any general act relating to railways, into execution; and that so much of the last-recited act as provides that no person shall be eligible to the appointment as inspector who shall, within one year of his appointment, have been a director, or have held any office of trust or profit under any railway company, shall be repealed: provided always, that no person to be appointed as aforesaid shall exercise any powers of interference in the affairs of the company.

16. And whereas by the said act of the fourth year of the reign of her Majesty, intituled "An Act for regulating Railways," it is among other things enacted, that whenever it shall appear to the lords of the said committee that any of the provisions of the several acts of parliament regulating any railway companies, or the provisions of that act, have not been complied with on the part of any of the said companies or any of their officers, and that it would be for the public advantage that the due performance of the same should be enforced, the lords of the said committee shall certify the same to her Majesty's attorney-general for England or Ireland, or to the lord-advocate for Scotland, as the case may require; and thereupon the said attorney-general or lord-advocate shall, by information, or by action, bill, plaint, suit at law or in equity, or other legal proceeding (as the case may require), proceed to recover such penalties and forfeitures, or otherwise to enforce the due performance of the said provisions, by such means as any person aggrieved by such non-compliance, or otherwise authorized to sue for such penalties, might employ under the provisions of the said acts; provided always, that no such certificate as aforesaid shall be given by the lords of the said committee until twenty-one days after they shall have given notice of their intention to give the same to the company against or in relation to whom they shall intend to give the same: and whereas it is expedient that more effectual provision should be made, not only for enforcing a compliance on the part of railway companies with the provisions of their acts, but also for restraining

*Inspectors
of rail-
ways.*

See 3 & 4
Vict. c. 97,
s. 5.

Extension
of power of
appoint-
ment of, by
Board of
Trade.

Repeal of
proviso to
3 & 4 Vict.
c. 97, s. 5.

*Prosecu-
tions to
enforce
provisions
of rail-
way acts.*

Repeal of 3
& 4 Vict. c.
97, s. 11.

Prosecutions to enforce provisions of railway acts,

may be directed by the Board of Trade,

in cases of non-compliance with provisions of acts.

In cases of commission of acts unauthorized by law.

Notice of, to be given to the company.

railway companies from performing acts unauthorized by such provisions; be it enacted, That so much of the said act as is hereinbefore recited shall be repealed.

17. And be it enacted, that whenever it shall appear to the lords of the said committee that any of the provisions of the several acts of parliament regulating any railway company, or the provisions of this act or of any general act relating to railways, have not been complied with on the part of any railway company or any of its officers, or that any railway company has acted or is acting in a manner unauthorized by the provisions of the act or acts of parliament relating to such railway, or in excess of the powers given and objects defined by the said act or acts, and it shall also appear to the lords of the said committee that it would be for the public advantage that the company should be restrained from so acting, the lords of the said committee shall certify the same to her Majesty's attorney-general for England or Ireland, or to the lord-advocate for Scotland, as the case may require; and thereupon the said attorney-general or lord-advocate shall, in case such default of the railway company shall consist of non-compliance with the provisions of the act or acts relating thereto, or of this act, or of any general act relating to railways, proceed by information, or by action, bill, plaint, suit at law or in equity, or other legal proceeding, as the case may require, to recover such penalties and forfeitures, or otherwise to enforce the due performance of the said provisions, by such means as any person aggrieved by such non-compliance, or otherwise authorized to sue for such penalties, might employ under the provisions of the said acts; and in case the default of the railway company shall consist in the commission of some act or acts unauthorized by law, then the said attorney-general or lord-advocate, upon receiving such certificate as aforesaid, shall proceed by suit in equity, or such other legal proceeding as the nature of the case may require, to obtain an injunction or order (which the judge in equity or other judge to whom the application is made shall be authorized and required to grant, if he shall be of opinion that the act or acts of the railway company complained of is or are not authorized by law,) to restrain the company from acting in such illegal manner, or to give such other relief as the nature of the case may require.

18. Provided always, and be it enacted, That no such certificate as aforesaid shall be given by the lords of the said committee until twenty-one days after they shall have given notice to the company against or in relation to whom they shall intend to give such certificate of their intention to give such certificate; and that no legal pro-

ceedings shall be commenced under the authority of the lords of the said committee against any railway company for any offence against any of the several acts relating to railways, or this act, or any general act relating to railways, except upon such certificate of the lords of the said committee as aforesaid, and within one year after such offence shall have been committed.

Prosecu-
tions to be
within one
year after
the offence.

19. And whereas many railway companies have borrowed money in a manner unauthorized by their acts of incorporation or other acts of parliament relating to the said companies, upon the security of loan notes or other instruments purporting to give a security for the repayment of the principal sums borrowed at certain dates, and for the payment of interest thereon in the meantime: and whereas such loan notes or other securities issued otherwise than under the provision of some act or acts of parliament have no legal validity, and it is expedient that the issue of such illegal securities should be stopped; but such loan notes or other securities having been issued and received in good faith as between the borrower and lender, and for the most part for the lawful purposes of the undertaking, and in ignorance of their legal invalidity, it is expedient to confirm such as have been already issued; be it enacted, That from and after the passing of this act any railway company issuing any loan note or other negotiable or assignable instrument purporting to bind the company as a legal security for money advanced to the said railway company otherwise than under the provisions of some act or acts of parliament authorizing the said railway company to raise such money and to issue such security, shall for every such offence forfeit to her Majesty a sum equal to the sum for which such loan note or other instrument purports to be such security: provided always, that any company may renew any such loan note or other instrument issued by them prior to the passing of this act for any period or periods not exceeding five years from the passing of this act.

Loan Notes.

Issue of,
prohibited
in future.

Already
issued may
be renewed.

20. And be it enacted, That where any railway company before the twelfth day of July one thousand eight hundred and forty-four, shall have issued or contracted to issue any such loan notes or other unauthorized instruments, the company may and shall pay off such loan notes or other instruments as the same may fall due, subject as hereinbefore provided; and until the same shall be so paid off the said loan notes or other instruments shall entitle the holders thereof to the payment by the company of the principal sum and interest thereby agreed to be paid.

Already
issued to be
paid when
due.

21. And be it enacted, That a register of all such loan notes or other instruments shall be kept by the secretary;

Register of
to be kept.

Loan Notes. — and such register shall be open, without fee or reward, at all reasonable times, to the inspection of any shareholder or auditor of the undertaking, and of every person interested in any such loan note or other instrument, desirous of inspecting the same.

Tithe Rent. — 22. And whereas the remedies now in force for the recovery of tithe commutation rent-charges are in many instances ineffectual for such parts thereof as are charged upon lands taken for the purposes of a railway, and it is therefore expedient to extend the said remedies when the said rent-charges may have been duly apportioned; be it enacted, That in all cases in which any such rent-charge, or part of any rent-charge, has been or hereafter shall be duly apportioned under the provisions of the acts for the commutation of tithes in England and Wales, upon lands taken or purchased by any railway company for the purposes of such company, or upon any part of such lands, it shall be lawful for every person entitled to the said rent-charge or parts of such rent-charge, in case the same has been or shall be in arrear and unpaid for the space of twenty-one days next after any half-yearly day fixed for the payment thereof, to distrain for all arrears of the said rent-charge upon the goods, chattels, and effects of the said company, whether on the land charged therewith, or any other lands, premises, or hereditaments of such company, whether situated in the same parish or elsewhere, and to dispose of the distress when taken, and otherwise to demean himself in relation thereto, as any landlord may for arrears of rent reserved on a lease for years: provided always, that nothing herein contained shall give or be construed to give a legal right to such rent-charge, when but for this act such rent-charge was not or could not be duly apportioned.

Proviso.

Service of notices, — 23. And be it enacted, That all notices, requisitions, orders, regulations, appointments, certificates, certified copies, and other documents in writing, signed by some officer appointed for that purpose by the lords of the said committee, shall for the purposes of this act be deemed to have been made by the lords of the said committee; and all certificates of any thing done by the lords of the said committee in relation to this act, and certified copies of the minutes of proceedings or correspondence of the lords of the said committee in relation thereto, signed by such officer, shall be deemed sufficient evidence thereof, and that in the absence of evidence to the contrary, without proof of the authority of the person signing the same or of the signature thereto, and service of the same at one of the principal offices of any railway company on the secretary or clerk of the said company, or by sending the same

on com-
pany

by post, addressed to him at such office, shall be deemed good service upon the said company; and all notices, returns, and other documents required by this act to be given to or laid before the lords of the said committee, shall be delivered at or sent by post addressed to the office of the lords of the said committee.

Service of notices, — to Board of Trade.

24. And be it enacted, That all penalties under this act for the application of which no special provision is made shall be recovered in the name and for the use of her Majesty, and may be recovered in any of her Majesty's courts of record, or in the court of session or in any of the sheriff courts in Scotland.

Recovery of penalties.

25. And be it enacted, That where the word "railway" is used in this act it shall be construed to extend to railways constructed under the powers of any act of parliament; and when the words "passenger railway" are used in this act, they shall be construed to extend to railways constructed under the powers of any act of parliament upon which one-third or more of the gross annual revenue is derived from the conveyance of passengers by steam or other mechanical power; and whenever the word "company" is used in this act it shall be construed to extend to include the proprietors for the time being of any such railway; and that where a different sense is not expressly declared, or does not appear by the context, every word importing the singular number or the masculine gender shall be taken to include females as well as males, and several persons and things as well as one person or thing.

Interpretation of words.

*"Railway."
"Passenger Railway."*

"Company"

26. And be it enacted, That this act may be amended or repealed by any act to be passed in this session of parliament.

Act may be amended or repealed.

8 VICT. cap. 16.

An Act for consolidating in One Act certain Provisions usually inserted in Acts with respect to the Constitution of Companies incorporated for carrying on Undertakings of a Public Nature.

[8th May 1845.]

WHEREAS it is expedient to comprise in one general act sundry provisions relating to the constitution and management of joint stock companies, usually introduced into acts of parliament authorizing the execution of undertakings of a public nature by such companies, and that as

Preamble.

Preamble. well for the purpose of avoiding the necessity of repeating such provisions in each of the several acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves,

Act to apply to all companies incorporated by acts hereafter to be passed.

1. May it therefore please your Majesty that it may be enacted; and be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That this act shall apply to every joint stock company which shall by any act which shall hereafter be passed be incorporated for the purpose of carrying on any undertaking, and this act shall be incorporated with such act; and all the clauses and provisions of this act, save so far as they shall be expressly varied or excepted by any such act, shall apply to the company which shall be incorporated by such act, and to the undertaking for carrying on which such company shall be incorporated, so far as the same shall be applicable thereto respectively; and such clauses and provisions, as well as the clauses and provisions of every other act which shall be incorporated with such act, shall, save as aforesaid, form part of such act, and be construed together therewith as forming one act.

Interpretations in this act.

2. And with respect to the construction of this act, and of other acts to be incorporated therewith, be it enacted as follows:—

“The special act.”

The expression “the special act” used in this act shall be construed to mean any act which shall be hereafter passed incorporating a joint stock company for the purpose of carrying on any undertaking, and with which this act shall be so incorporated as aforesaid; and the word “prescribed” used in this act, in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special act; and the sentence in which such word shall occur shall be construed as if instead of the word “prescribed” the expression “prescribed for that purpose in the special act” had been used; and the expression “the undertaking” shall mean the undertaking or works, of whatever nature, which shall by the special act be authorized to be executed.

“Prescribed.”

“The undertaking.”

Interpretations in this and the special act.

3. The following words and expressions both in this and the special act shall have the several meanings hereby assigned to them, unless there be something in the subject or the context repugnant to such construction; (that is to say,)

Number.

Words importing the singular number only shall include the plural number; and words importing the plural number only shall include the singular number.

Words importing the masculine gender only shall include females :

The word "lands" shall extend to messuages, lands, tenements, and hereditaments of any tenure :

The word "lease" shall include an agreement for a lease :

The word "month" shall mean calendar month :

The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require :

The word "oath" shall include affirmation in the case of quakers, or other declaration lawfully substituted for an oath in the case of any other persons, exempted by law from the necessity of taking an oath :

The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town :

The word "justice" shall mean justice of the peace acting for the county, city, borough, liberty, cinque port, or other place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter; and where any matter shall be authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together in petty sessions :

The expression "the company" shall mean the company constituted by the special act :

The expression "the directors" shall mean the directors of the company, and shall include all persons having the direction of the undertaking, whether under the name of directors, managers, committee of management, or under any other name :

The word "shareholder" shall mean shareholder, proprietor, or member of the company; and in referring to any such shareholder, expressions properly applicable to a person shall be held to apply to a corporation : and

The expression "the secretary" shall mean the secretary of the company, and shall include the word "clerk."

4. And be it enacted, That in citing this act in other acts of parliament and in legal instruments it shall be sufficient to use the expression "The Companies' Clauses Consolidation Act, 1845."

5. And whereas it may be convenient in some cases to incorporate with acts of parliament hereafter to be passed some portion only of the provisions of this act; be it therefore enacted, That for the purpose of making any such incorporation it shall be sufficient in any such act to enact that the clauses and provisions of this act, with respect to

Form in which portions of this act may be incorporated with other acts.

Interpretations in this and the special act. the matter so proposed to be incorporated (describing such matter as it is described in this act in the words introductory to the enactment with respect to such matter), shall be incorporated with such act; and thereupon all the clauses and provisions of this act with respect to the matter so incorporated shall, save so far as they shall be expressly varied or excepted by such act, form part of such act, and such act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such act shall relate.

Distribution of capital. And with respect to the distribution of the capital of the company into shares, be it enacted as follows :

Capital to be divided into shares. 6. The capital of the company shall be divided into shares of the prescribed number and amount; and such shares shall be numbered in arithmetical progression, beginning with number one; and every such share shall be distinguished by its appropriate number.

Shares to be personal estate. 7. All shares in the undertaking shall be personal estate, and transmissible as such, and shall not be of the nature of real estate.

Persons who subscribe to be shareholders. 8. Every person who shall have subscribed the prescribed sum or upwards to the capital of the company, or shall otherwise have become entitled to a share in the company, and whose name shall have been entered on the register of shareholders hereinafter mentioned, shall be deemed a shareholder of the company.

Register of shareholders to be kept, and authenticated. 9. The company shall keep a book, to be called the "register of shareholders;" and in such book shall be fairly and distinctly entered, from time to time, the names of the several corporations, and the names and additions of the several persons entitled to shares in the company, together with the number of shares to which such shareholders shall be respectively entitled, distinguishing each share by its number, and the amount of the subscriptions paid on such shares, and the surnames or corporate names of the said shareholders shall be placed in alphabetical order; and such book shall be authenticated by the common seal of the company being affixed thereto; and such authentication shall take place at the first ordinary meeting, or at the next subsequent meeting of the company, and so from time to time at each ordinary meeting of the company.

Shareholders' address-book to be kept; 10. In addition to the said register of shareholders, the company shall provide a book, to be called the "shareholders' address-book," in which the secretary shall from time to time enter, in alphabetical order, the corporate names and places of business of the several shareholders of the company, being corporations, and the surnames of the several other shareholders with their respective

christian names, places of abode, and descriptions, so far as the same shall be known to the company; and every shareholder, or if such shareholder be a corporation the clerk or agent of such corporation, may at all convenient times peruse such book gratis, and may require a copy thereof or of any part thereof; and for every hundred words so required to be copied, the company may demand a sum not exceeding sixpence.

*Distribu-
tion of
capital.*

may be
perused and
copied.

11. On demand of the holder of any share the company shall cause a certificate of the proprietorship of such share to be delivered to such shareholder; and such certificate shall have the common seal of the company affixed thereto; and such certificate shall specify the share in the undertaking to which such shareholder is entitled; and the same may be according to the form in the schedule (A.) to this act annexed, or to the like effect; and for such certificate the company may demand any sum not exceeding the prescribed amount, or if no amount be prescribed, then a sum not exceeding two shillings and sixpence.

*Certificates
of shares to
be issued to
the share-
holders*

Form.

Fee.

12. The said certificate shall be admitted in all courts as *prima facie* evidence of the title of such shareholder, his executors, administrators, successors, or assigns, to the share therein specified; nevertheless the want of such certificate shall not prevent the holder of any share from disposing thereof.

*Certificate
to be evi-
dence.*

13. If any such certificate be worn out or damaged, then, upon the same being produced at some meeting of the directors, such directors may order the same to be cancelled, and thereupon another similar certificate shall be given to the party in whom the property of such certificate, and of the share therein mentioned, shall be at the time vested; or if such certificate be lost or destroyed, then, upon proof thereof to the satisfaction of the directors, a similar certificate shall be given to the party entitled to the certificate so lost or destroyed; and in either case a due entry of the substituted certificate shall be made by the secretary in the register of shareholders; and for every such certificate so given or exchanged the company may demand any sum not exceeding the prescribed amount, or if no amount be prescribed, then a sum not exceeding two shillings and sixpence.

*Certificate
to be re-
newed when
lost or de-
stroyed*

*Entry in
register of
share-
holders.*

Fee.

And with respect to the transfer or transmission of shares, be it enacted as follows:

*Transfer of
Shares.*

14. Subject to the regulations herein or in the special act contained, every shareholder may sell and transfer all or any of his shares in the undertaking, or all or any part of his interest in the capital stock of the company, in case such shares shall, under the provision hereinafter contained,

*Sharehold-
ers may
transfer
shares by
deed.*

Transfer of shares. — be consolidated into capital stock ; and every such transfer shall be by deed duly stamped, in which the consideration shall be truly stated ; and such deed may be according to the form in the schedule (B.) to this act annexed, or to the like effect.

Form.

Memorials of transfers to be entered in register of transfers. 15. The said deed of transfer (when duly executed) shall be delivered to the secretary, and be kept by him ; and the secretary shall enter a memorial thereof in a book to be called the "Register of Transfers," and shall endorse such entry on the deed of transfer, and shall, on demand, deliver a new certificate to the purchaser ; and for every such entry, together with such endorsement and certificate, the company may demand any sum not exceeding the prescribed amount, or if no amount be prescribed, then a sum not exceeding two shillings and sixpence ; and on the request of the purchaser of any share an endorsement of such transfer shall be made on the certificate of such share, instead of a new certificate being granted ; and such endorsement, being signed by the secretary, shall be considered in every respect the same as a new certificate ; and until such transfer has been so delivered to the secretary as aforesaid the vendor of the share shall continue liable to the company for any calls that may be made upon such share, and the purchaser of the share shall not be entitled to receive any share of the profits of the undertaking, or to vote in respect of such share.

Fee.

Until registered, vendor liable for calls. Purchaser not entitled to profits.

Transfer not to be made until calls paid.

Closing of transfer books.

Notice.

Transmission of shares by other means than transfer to be

16. No shareholder shall be entitled to transfer any share, after any call shall have been made in respect thereof, until he shall have paid such call, nor until he shall have paid all calls for the time being due on every share held by him.

17. It shall be lawful for the directors to close the register of transfers for the prescribed period, or if no period be prescribed, then for a period not exceeding fourteen days previous to each ordinary meeting, and they may fix a day for the closing of the same, of which seven days' notice shall be given by advertisement in some newspaper as after mentioned ; and any transfer made during the time when the transfer books are so closed shall, as between the company and the party claiming under the same, but not otherwise, be considered as made subsequently to such ordinary meeting.

18. If the interest in any share have become transmitted in consequence of the death or bankruptcy or insolvency of any shareholder, or in consequence of the marriage of a female shareholder, or by any other lawful means than by a transfer according to the provisions of this or the special act, such transmission shall be authenticated by a

declaration in writing as hereinafter mentioned, or in such other manner as the directors shall require; and every such declaration shall state the manner in which and the party to whom such share shall have been so transmitted, and shall be made and signed by some credible person before a justice, or before a master or master extraordinary of the high court of chancery; and such declaration shall be left with the secretary, and thereupon he shall enter the name of the person entitled under such transmission in the register of shareholders; and for every such entry the company may demand any sum not exceeding the prescribed amount, and where no amount shall be prescribed, then not exceeding five shillings; and until such transmission has been so authenticated no person claiming by virtue of any such transmission shall be entitled to receive any share of the profits of the undertaking, nor to vote in respect of any such share as the holder thereof.

Transfer of shares
—
authenticated by a declaration.

Entry in register of shareholders.

Until authenticated not entitled to profits.

19. If such transmission be by virtue of the marriage of a female shareholder, the said declaration shall contain a copy of the register of such marriage, or other particulars of the celebration thereof, and shall declare the identity of the wife with the holder of such share; and if such transmission have taken place by virtue of any testamentary instrument, or by intestacy, the probate of the will or the letters of administration, or an official extract therefrom, shall, together with such declaration, be produced to the secretary; and upon such production in either of the cases aforesaid the secretary shall make an entry of the declaration in the said register of transfers.

Transmission by marriage, will, &c., to be proved by production of register or probate.

Entry in register of transfers.

20. The company shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any of the said shares may be subject; and the receipt of the party in whose name any such share shall stand in the books of the company, or if it stands in the names of more parties than one, the receipt of one of the parties named in the register of shareholders, shall from time to time be a sufficient discharge to the company for any dividend or other sum of money payable in respect of such share, notwithstanding any trusts to which such share may then be subject, and whether or not the company have had notice of such trusts; and the company shall not be bound to see to the application of the money paid upon such receipt.

Company not bound to regard trusts.

Receipt of party named in register of shareholders a sufficient discharge.

And with respect to the payment of subscriptions and the means of enforcing the payment of calls, be it enacted as follows:

Payment of calls.
—

21. The several persons who have subscribed any money towards the undertaking, or their legal representatives to be

Subscriptions to be

- Payment of calls.* tatives, respectively, shall pay the sums respectively so subscribed, or such portions thereof as shall from time to time be called for by the company, at such times and places as shall be appointed by the company; and with respect to the provisions herein or in the special act contained for enforcing the payment of calls, the word "shareholder" shall extend to and include the legal personal representatives of such shareholder.
- paid when called for.* —
- Power to make calls.* 22. It shall be lawful for the company from time to time to make such calls of money upon the respective shareholders, in respect of the amount of capital respectively subscribed or owing by them, as they shall think fit, provided that twenty-one days' notice at the least be given of each call, and that no call exceed the prescribed amount, if any, and that successive calls be not made at less than the prescribed interval, if any, and that the aggregate amount of calls made in any one year do not exceed the prescribed amount, if any; and every shareholder shall be liable to pay the amount of the calls so made, in respect of the shares held by him, to the persons and at the times and places from time to time appointed by the company.
- Notice.*
- Interval.*
- Prescribed amount.*
- Interest to be paid on calls unpaid.* 23. If, before or on the day appointed for payment, any shareholder do not pay the amount of any call to which he is liable, then such shareholder shall be liable to pay interest for the same at the rate allowed by law from the day appointed for the payment thereof to the time of the actual payment.
- Interest may be allowed on payment of subscriptions before call.* 24. It shall be lawful for the company, if they think fit, to receive from any of the shareholders willing to advance the same all or any part of the monies due upon their respective shares beyond the sums actually called for; and upon the principal monies so paid in advance, or so much thereof as from time to time shall exceed the amount of the calls then made upon the shares in respect of which such advance shall be made, the company may pay interest at such rate, not exceeding the legal rate of interest for the time being, as the shareholder paying such sum in advance and the company shall agree upon.
- Payment of calls may be enforced by action.* 25. If at the time appointed by the company for the payment of any call any shareholder fail to pay the amount of such call, it shall be lawful for the company to sue such shareholder for the amount thereof, in any court of law or equity having competent jurisdiction, and to recover the same, with lawful interest, from the day on which such call was payable.
- Declaration in action for calls.* 26. In any action or suit to be brought by the company against any shareholder to recover any money due for any call it shall not be necessary to set forth the special matter, but it shall be sufficient for the company to declare that

the defendant is the holder of one share or more in the company (stating the number of shares), and is indebted to the company in the sum of money to which the calls in arrear shall amount in respect of one call or more upon one share or more (stating the number and amount of each of such calls), whereby an action hath accrued to the company by virtue of this and the special act.

Payment of calls.
—

27. On the trial or hearing of such action or suit it shall be sufficient to prove that the defendant at the time of making such call was a holder of one share or more in the undertaking, and that such call was in fact made, and such notice thereof given as is directed by this or the special act; and it shall not be necessary to prove the appointment of the directors who made such call, nor any other matter whatsoever; and thereupon the company shall be entitled to recover what shall be due upon such call, with interest thereon, unless it shall appear either that any such call exceeds the prescribed amount, or that due notice of such call was not given, or that the prescribed interval between two successive calls had not elapsed, or that calls amounting to more than the sum prescribed for the total amount of calls in one year had been made within that period.

Matter to be proved in action for calls.

28. The production of the register of shareholders shall be *prima facie* evidence of such defendant being a shareholder, and of the number and amount of his shares.

Register to be evidence.

And with respect to the forfeiture of shares for non-payment of calls, be it enacted as follows :

Forfeiture of shares.
—

29. If any shareholder fail to pay any call payable by him, together with the interest, if any, that shall have accrued thereon, the directors at any time after the expiration of two months from the day appointed for payment of such call, may declare the share in respect of which such call was payable forfeited, and that whether the company have sued for the amount of such call or not.

If calls unpaid for two months, shares may be declared forfeited.

30. Before declaring any share forfeited, the directors shall cause notice of such intention to be left at or transmitted by the post to the usual or last place of abode of the person appearing by the register of shareholders to be the proprietor of such share; and if the holder of any such share be abroad, or if his usual or last place of abode be not known to the directors, by reason of its being imperfectly described in the shareholders' address book, or otherwise, or if the interest in any such share shall be known by the directors to have become transmitted otherwise than by transfer, as hereinbefore mentioned, but a declaration of such transmission shall not have been registered as aforesaid, and so the address of the parties to whom the same may have been transmitted, or may for

Notice of forfeiture to be given before declaration thereof.

*Forfeiture
of shares.*

—

the time being belong, shall not be known to the directors, the directors shall give public notice of such intention in the London or Dublin Gazette, according as the company's principal place of business shall be situate in England or Ireland, and also in some newspaper, as after mentioned; and the several notices aforesaid shall be given twenty-one days at least before the directors shall make such declaration of forfeiture.

Declaration
of forfeiture
to be con-
firmed by a
general
meeting.

31. The said declaration of forfeiture shall not take effect so as to authorize the sale or other disposition of any share until such declaration have been confirmed at some general meeting of the company to be held after the expiration of two months at the least from the day on which such notice of intention to make such declaration of forfeiture shall have been given; and it shall be lawful for the company to confirm such forfeiture at any such meeting, and by an order at such meeting, or at any subsequent general meeting, to direct the share so forfeited to be sold or otherwise disposed of.

When de-
claration
confirmed,
forfeited
shares may
be sold.

32. After such confirmation as aforesaid it shall be lawful for the directors to sell the forfeited share, either by public auction or private contract, and if there be more than one such forfeited share, then either separately or together, as to them shall seem fit; and any shareholder may purchase any forfeited share so sold.

Evidence as
to forfeiture
of shares.

33. A declaration in writing, by some credible person not interested in the matter, made before any justice, or before any master or master extraordinary of the high court of chancery, that the call in respect of a share was made, and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was declared and confirmed in manner hereinbefore required, shall be sufficient evidence of the facts therein stated; and such declaration, and the receipt of the treasurer of the company for the price of such share, shall constitute a good title to such share; and a certificate of proprietorship shall be delivered to such purchaser, and thereupon he shall be deemed the holder of such share, discharged from all calls due prior to such purchase; and he shall not be bound to see to the application of the purchase money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Declaration
and receipt
a good title
to the pur-
chaser.

No more
shares to be
sold than
sufficient to
pay calls,
interest, &
expenses.

34. The company shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of such sale, to pay the arrears then due from such defaulter on account of any calls, together with interest, and the expenses attending such sale and declaration of forfeiture; and if

the money produced by the sale of any such forfeited shares be more than sufficient to pay all arrears of calls and interest thereon due at the time of such sale, and the expenses attending the declaration of forfeiture and sale thereof, the surplus shall, on demand, be paid to the defaulter.

Forfeiture of shares.
—

35. If payment of such arrears of calls and interest and expenses be made before any share so forfeited and vested in the company shall have been sold, such share shall revert to the party to whom the same belonged before such forfeiture, in such manner as if such calls had been duly paid.

On payment of calls before sale, shares to revert.

And with respect to the remedies of creditors of the company against the shareholders, be it enacted as follows :

Remedies against shareholders.
—

36. If any execution, either at law or in equity, shall have been issued against the property or effects of the company, and if there cannot be found sufficient whereon to levy such execution, then such execution may be issued against any of the shareholders to the extent of their shares respectively in the capital of the company not then paid up: provided always, that no such execution shall issue against any shareholder except upon an order of the court in which the action, suit, or other proceeding shall have been brought or instituted, made upon motion in open court after sufficient notice in writing to the persons sought to be charged; and upon such motion such court may order execution to issue accordingly; and for the purpose of ascertaining the names of the shareholders, and the amount of capital remaining to be paid upon their respective shares, it shall be lawful for any person entitled to any such execution, at all reasonable times, to inspect the "Register of Shareholders" without fee.

Execution may be issued to the extent of shares in capital not paid up.

Notice.

Inspection of register of shareholders.

37. If by means of any such execution any shareholder shall have paid any sum of money beyond the amount then due from him in respect of calls, he shall forthwith be reimbursed such additional sum by the directors out of the funds of the company.

Reimbursement of shareholders.

And with respect to the borrowing of money by the company on mortgage or bond, be it enacted as follows :

Borrowing of money.
—

38. If the company be authorized by the special act to borrow money on mortgage or bond, it shall be lawful for them, subject to the restrictions contained in the special act, to borrow on mortgage or bond such sums of money as shall, from time to time, by an order of a general meeting of the company, be authorized to be borrowed, not exceeding in the whole the sum prescribed by the special act, and for securing the repayment of the money so bor-

Company may borrow such sums as shall be authorized by a general meeting.

Borrowing of money. rowed, with interest, to mortgage the undertaking, and the future calls on the shareholders, or to give bonds in manner hereinafter mentioned.

If borrowed money be repaid, company may again borrow. 39. If, after having borrowed any part of the money so authorized to be borrowed on mortgage or bond, the company pay off the same, it shall be lawful for them again to borrow the amount so paid off, and so from time to time; but such power of re-borrowing shall not be exercised without the authority of a general meeting of the company, unless the money be so re-borrowed in order to pay off any existing mortgage or bond.

Evidence of authority for borrowing. 40. Where by the special act the company shall be restricted from borrowing any money on mortgage or bond until a definite portion of their capital shall be subscribed or paid up, or where by this or the special act the authority of a general meeting is required for such borrowing, the certificate of a justice that such definite portion of the capital has been subscribed or paid up, and a copy of the order of a general meeting of the company authorizing the borrowing of any money, certified by one of the directors or by the secretary to be a true copy, shall be sufficient evidence of the fact of the capital required to be subscribed or paid up having been so subscribed or paid up, and of the order for borrowing money having been made; and upon production to any justice of the books of the company, and of such other evidence as he shall think sufficient, such justice shall grant the certificate aforesaid.

Certificate of justice. Order of general meeting. 41. Every mortgage and bond for securing money borrowed by the company shall be by deed under the common seal of the company, duly stamped, and wherein the consideration shall be truly stated; and every such mortgage deed or bond may be according to the form in the schedule (C.) or (D.) to this act annexed, or to the like effect.

Mortgages and bonds to be by deed. Form. 42. The respective mortgagees shall be entitled one with another to their respective proportions of the tolls, sums, and premises comprised in such mortgages, and of the future calls payable by the shareholders, if comprised therein, according to the respective sums in such mortgages mentioned to be advanced by such mortgagees respectively, and to be repaid the sums so advanced, with interest, without any preference one above another by reason of priority of the date of any such mortgage, or of the meeting at which the same was authorized.

Mortgagees entitled to proportions of tolls, &c., without preference. 43. No such mortgage (although it should comprise future calls on the shareholders) shall, unless expressly so provided, preclude the company from receiving and applying to the purposes of the company any calls to be made by the company.

Mortgage not to preclude receipt of calls. 44. The respective obligees in such bonds shall, propor-

Obligees in

tionally according to the amount of the monies secured thereby, be entitled to be paid, out of the tolls or other property or effects of the company, the respective sums in such bonds mentioned, and thereby intended to be secured, without any preference one above another by reason of priority of date of any such bond, or of the meeting at which the same was authorized, or otherwise howsoever.

45. A register of mortgages and bonds shall be kept by the secretary, and within fourteen days after the date of any such mortgage or bond an entry or memorial, specifying the number and date of such mortgage or bond, and the sums secured thereby, and the names of the parties thereto, with their proper additions, shall be made in such register; and such register may be perused at all reasonable times by any of the shareholders, or by any mortgagee or bond creditor of the company, or by any person interested in any such mortgage or bond, without fee or reward.

46. Any party entitled to any such mortgage or bond may from time to time transfer his right and interest therein to any other person; and every such transfer shall be by deed duly stamped, wherein the consideration shall be truly stated; and every such transfer may be according to the form in the schedule (E.) to this act annexed, or to the like effect.

47. Within thirty days after the date of every such transfer, if executed within the united kingdom, or otherwise within thirty days after the arrival thereof in the united kingdom, it shall be produced to the secretary, and thereupon the secretary shall cause an entry or memorial thereof to be made in the same manner as in the case of the original mortgage; and after such entry every such transfer shall entitle the transferee to the full benefit of the original mortgage or bond in all respects; and no party, having made such transfer, shall have power to make void, release, or discharge the mortgage or bond so transferred, or any money thereby secured; and for such entry the company may demand a sum not exceeding the prescribed sum, or, where no sum shall be prescribed, the sum of two shillings and sixpence; and until such entry the company shall not be in any manner responsible to the transferee in respect of such mortgage.

48. The interest of the money borrowed upon any such mortgage or bond shall be paid at the periods appointed in such mortgage or bond, and if no period be appointed, half-yearly, to the several parties entitled thereto, and in preference to any dividends payable to the shareholders of the company.

Transfers of interest. 49. The interest on any such mortgage or bond shall not be transferable, except by deed duly stamped.

Money borrowed to be repaid at time fixed. 50. The company may, if they think proper, fix a period for the repayment of the principal money so borrowed with the interest thereof, and in such case the company shall cause such period to be inserted in the mortgage deed or bond; and upon the expiration of such period the principal sum, together with the arrears of interest thereon, shall, on demand, be paid to the party entitled to such mortgage or bond; and if no other place of payment be inserted in such mortgage deed or bond, such principal and interest shall be payable at the principal office or place of business of the company.

If no time fixed, money borrowed to be repaid at six months' notice. 51. If no time be fixed in the mortgage deed or bond for the repayment of the money so borrowed, the party entitled to the mortgage or bond may, at the expiration or at any time after the expiration of twelve months from the date of such mortgage or bond, demand payment of the principal money thereby secured, with all arrears of interest, upon giving six months' previous notice for that purpose; and in the like case the company may at any time pay off the money borrowed, on giving the like notice; and every such notice shall be in writing or print, or both, and if given by a mortgagee or bond creditor shall be delivered to the secretary or left at the principal office of the company, and if given by the company shall be given either personally to such mortgagee or bond creditor or left at his residence, or if such mortgagee or bond creditor be unknown to the directors, or cannot be found after diligent enquiry, such notice shall be given by advertisement in the London or Dublin Gazette, according as the principal office of the company shall be in England or Ireland, and in some newspaper as after mentioned.

Notice to company.

Notice by company.

Interest to cease on expiration of notice to pay off mortgage or bond.

52. If the company shall have given notice of their intention to pay off any such mortgage or bond at a time when the same may lawfully be paid off by them, then at the expiration of such notice all further interest shall cease to be payable on such mortgage or bond, unless, on demand of payment made pursuant to such notice, or at any time thereafter, the company shall fail to pay the principal and interest due at the expiration of such notice on such mortgage or bond.

Arrears of interest, when to be enforced by appointment of a receiver.

53. Where by the special act the mortgagees of the company shall be empowered to enforce the payment of the arrears of interest, or the arrears of principal and interest, due on such mortgages, by the appointment of a receiver, then, if within thirty days after the interest accruing upon any such mortgage has become payable, and, after demand thereof in writing, the same be not paid,

the mortgagee may, without prejudice to his right to sue for the interest so in arrear in any of the superior courts of law or equity, require the appointment of a receiver, by an application to be made as hereinafter provided; and if within six months after the principal money owing upon any such mortgage has become payable, and after demand thereof in writing, the same be not paid, the mortgagee without prejudice to his right to sue for such principal money, together with all arrears of interest, in any of the superior courts of law or equity, may, if his debt amount to the prescribed sum alone, or if his debt does not amount to the prescribed sum, he may, in conjunction with other mortgagees whose debts, being so in arrear, after demand as aforesaid, shall, together with his, amount to the prescribed sum, require the appointment of a receiver, by an application to be made as hereinafter provided.

Borrowing of money.
—

Arrears of principal and interest.

Joint mortgages.

54. Every application for a receiver in the cases aforesaid shall be made to two justices, and on any such application it shall be lawful for such justices, by order in writing, after hearing the parties, to appoint some person to receive the whole or a competent part of the tolls or sums liable to the payment of such interest, or such principal and interest, as the case may be, until such interest, or until such principal and interest, as the case may be, together with all costs, including the charges of receiving the tolls or sums aforesaid, be fully paid; and upon such appointment being made, all such tolls and sums of money as aforesaid shall be paid to and received by the person so to be appointed; and the money so to be received shall be so much money received by or to the use of the party to whom such interest, or such principal and interest, as the case may be, shall be then due, and on whose behalf such receiver shall have been appointed; and after such interest and costs, or such principal, interest, and costs, have been so received, the power of such receiver shall cease.

Receiver to be appointed by two justices

Tolls &c. to be paid to receiver.

When power of receiver to cease.

55. At all seasonable times the books of account of the company shall be open to the inspection of the respective mortgagees and bond creditors thereof, with liberty to take extracts therefrom without fee or reward.

Access to books by mortgagees.

And with respect to the conversion of the borrowed money into capital, be it enacted as follows:—

Conversion of borrowed money into capital.
—

56. It shall be lawful for the company, if they think fit, unless it be otherwise provided by the special act, to raise the additional sum so authorized to be borrowed, or any part thereof, by creating new shares of the company, instead of borrowing the same, or, having borrowed the same, to continue at interest only a part of such additional sum, and to raise part thereof by creating new shares; may be

Sum authorized to be borrowed may be

raised by but no such augmentation of capital as aforesaid shall
creating take place without the previous authority of a general
new shares. meeting of the company.

New shares 57. The capital so to be raised by the creation of new
to be sub- shares shall be considered as part of the general capital,
ject to same and shall be subject to the same provisions in all respects,
provisions whether with reference to the payment of calls, or the
as original forfeiture of shares on nonpayment of calls, or otherwise
shares. as if it had been part of the original capital, except as to
the times of making calls for such additional capital, and
the amount of such calls, which respectively it shall be
lawful for the company from time to time to fix as they
shall think fit.

If old shares 58. If at the time of any such augmentation of capital
at premium, taking place by the creation of new shares the then exist-
new shares ing shares be at a premium, or of greater actual value than
to be offered the nominal value thereof, then, unless it be otherwise
to the share- provided by the special act, the sum so to be raised shall
holders. be divided into shares of such amount as will conveniently
allow the same to be apportioned among the then share-
holders in proportion to the existing shares held by them
respectively; and such new shares shall be offered to the
then shareholders in the proportion aforesaid; and such
offer shall be made by letter under the hand of the secre-
tary given to or sent by post, addressed to each shareholder
according to his address in the shareholders' address-book,
or left at his usual or last place of abode.

Shares to 59. The said new shares shall vest in and belong to the
vest in the shareholders who shall accept the same, and pay the value
parties ac- thereof to the company at the time and by the instalments
cepting; which shall be fixed by the company; and if any share-
otherwise holder fail for one month after such offer of new shares to
to be dis- accept the same, and pay the instalments called for in
posed of by respect thereof, it shall be lawful for the company to dis-
the direc- pose of such shares in such manner as they shall deem
tors. most for the advantage of the company.

If not at a 60. If at the time of such augmentation of capital taking
premium, to place the existing shares be not at a premium, then
be issued as such new shares may be of such amount, and may be
company issued in such manner, and on such terms, as the company
think fit. shall think fit.

Consolida- And with respect to the consolidation of the shares into
tion of stock, be it enacted as follows:

61. It shall be lawful for the company from time to
time, with the consent of three-fifths of the votes of the
shareholders present in person, or by proxy, at any general
meeting of the company, when due notice for that purpose
shall have been given, to convert or consolidate all or any
part of the shares then existing in the capital of the
Company may conso-
lidate
shares into
stock.

company, and in respect whereof the whole money subscribed shall have been paid up, into a general capital stock, to be divided amongst the shareholders according to their respective interests therein. *Consolidation of shares.*

62. After such conversion or consolidation shall have taken place, all the provisions contained in this or the special act which require or imply that the capital of the company shall be divided into shares of any fixed amount, and distinguished by numbers, shall, as to so much of the capital as shall have been so converted or consolidated into stock, cease and be of no effect, and the several holders of such stock may thenceforth transfer their respective interests therein, or any parts of such interests, in the same manner and subject to the same regulations and provisions as or according to which any shares in the capital of the company might be transferred under the provisions of this or the special act; and the company shall cause an entry to be made in some book to be kept for that purpose, of every such transfer; and for every such entry they may demand any sum not exceeding the prescribed amount, or if no amount be prescribed, a sum not exceeding two shillings and sixpence. *After consolidation, provisions requiring capital to be divided into shares to cease. Transfer of stock. Registry of transfer. Fee.*

63. The company shall from time to time cause the names of the several parties who may be interested in any such stock as aforesaid, with the amount of the interest therein possessed by them respectively, to be entered in a book to be kept for the purpose, and to be called "The Register of Holders of Consolidated Stock;" and such book shall be accessible at all seasonable times to the several holders of shares or stock in the undertaking. *Register of holders of consolidated stock to be kept. Inspection.*

64. The several holders of such stock shall be entitled to participate in the dividends and profits of the company, according to the amount of their respective interests in such stock, and such interests shall, in proportion to the amount thereof, confer on the holders thereof respectively the same privileges and advantages, for the purpose of voting at meetings of the company, qualification for the office of directors, and for other purposes, as would have been conferred by shares of equal amount in the capital of the company, but so that none of such privileges or advantages, except the participation in the dividends and profits of the company shall be conferred by any aliquot part of such amount of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages respectively. *Proprietors of stock entitled to dividends, and same privileges as conferred by shares of equal amount.*

65. And be it enacted, That all the money raised by the company, whether by subscriptions of the shareholders, or by loan or otherwise, shall be applied, firstly, in paying the costs and expenses incurred in obtaining *Application of capital.*

the special act, and all expenses incident thereto, and, secondly, in carrying the purposes of the company into execution.

General meetings.

And with respect to the general meetings of the company, and the exercise of the right of voting by the shareholders, be it enacted as follows :

Ordinary meetings to be held half-yearly.

66. The first general meeting of the shareholders of the company shall be held within the prescribed time, or if no time be prescribed, within one month after the passing of the special act, and the future general meetings shall be held at the prescribed periods, and if no periods be prescribed, in the months of February and August in each year, or at such other stated periods as shall be appointed for that purpose by an order of a general meeting ; and the meetings so appointed to be held as aforesaid shall be called "ordinary meetings;" and all meetings, whether ordinary or extraordinary, shall be held in the prescribed place, if any, and if no place be prescribed, then at some place to be appointed by the directors.

Place of meeting.

Business at ordinary meetings.

67. No matters, except such as are appointed by this or the special act to be done at an ordinary meeting, shall be transacted at any such meeting, unless special notice of such matters have been given in the advertisement convening such meeting.

Extraordinary meetings.

68. Every general meeting of the shareholders, other than an ordinary meeting, shall be called an "extraordinary meeting;" and such meetings may be convened by the directors at such times as they think fit.

Notice of business at,

69. No extraordinary meeting shall enter upon any business not set forth in the notice upon which it shall have been convened.

Shareholders may require directors to call extraordinary meetings.

70. It shall be lawful for the prescribed number of shareholders, holding in the aggregate shares to the prescribed amount, or, where the number of shareholders or amount of shares shall not be prescribed, it shall be lawful for twenty or more shareholders holding in the aggregate not less than one-tenth of the capital of the company, by writing under their hands, at any time to require the directors to call an extraordinary meeting of the company ; and such requisition shall fully express the object of the meeting required to be called, and shall be left at the office of the company, or given to at least three directors, or left at their last or usual places of abode ; and forthwith upon the receipt of such requisition, the directors shall convene a meeting of the shareholders ; and if for twenty-one days after such notice the directors fail to call such meeting, the prescribed number, or such other number as aforesaid, of shareholders, qualified as aforesaid, may call such meeting, by giving fourteen days' public notice thereof.

Requisition to state object of meeting.

On failure of directors, shareholders may call meeting.

71. Fourteen days' public notice at the least of all meetings, whether ordinary or extraordinary, shall be given by advertisement, which shall specify the place, the day, and the hour of meeting; and every notice of an extraordinary meeting, or of an ordinary meeting, if any other business than the business hereby or by the special act appointed for ordinary meetings is to be done thereat, shall specify the purpose for which the meeting is called.

General Meetings.
—
Notice of meetings to be given by advertisement.

72. In order to constitute a meeting (whether ordinary or extraordinary) there shall be present, either personally or by proxy, the prescribed quorum, and if no quorum be prescribed, then shareholders holding in the aggregate not less than one-twentieth of the capital of the company, and being in number not less than one for every five hundred pounds of such required proportion of capital, unless such number would be more than twenty, in which case twenty shareholders holding not less than one-twentieth of the capital of the company, shall be the quorum; and if within one hour from the time appointed for such meeting the said quorum be not present no business shall be transacted at the meeting, other than the declaring of a dividend, in case that shall be one of the objects of the meeting, but such meeting shall, except in the case of a meeting for the election of directors, hereinafter mentioned, be held to be adjourned "sine die."

Quorum for a general meeting.

If quorum not present, meeting to be adjourned.

73. At every meeting of the company one or other of the following persons shall preside as chairman; that is to say, the chairman of the directors, or in his absence the deputy chairman (if any), or in the absence of the chairman and deputy chairman some one of the directors of the company to be chosen for that purpose by the meeting, or in the absence of the chairman and deputy chairman and of all the directors, any shareholder to be chosen for that purpose by a majority of the shareholders present at such meeting.

Chairman at general meetings.

74. The shareholders present at any such meeting shall proceed in the execution of the powers of the company with respect to the matters for which such meeting shall have been convened, and those only; and every such meeting may be adjourned from time to time, and from place to place; and no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which such adjournment took place.

Business at meetings and adjournments

75. At all general meetings of the company every shareholder shall be entitled to vote according to the prescribed scale of voting, and where no scale shall be prescribed every shareholder shall have one vote for every share up to ten, and he shall have an additional vote for every five shares beyond the first ten shares held by him

Votes of shareholders.

General meetings

up to one hundred, and an additional vote for every ten shares held by him beyond the first hundred shares: provided always, that no shareholder shall be entitled to vote at any meeting unless he shall have paid all the calls then due upon the shares held by him.

Manner of voting.

76. The votes may be given either personally or by proxies, being shareholders, authorized by writing according to the form in the schedule (F.) to this act annexed, or in a form to the like effect, under the hand of the shareholder nominating such proxy, or if such shareholder be a corporation, then under their common seal; and every proposition at any such meeting shall be determined by the majority of votes of the parties present, including proxies, the chairman of the meeting being entitled to vote, not only as a principal and proxy, but to have a casting vote if there be an equality of votes.

Regulations as to proxies.

77. No person shall be entitled to vote as a proxy unless the instrument appointing such proxy have been transmitted to the secretary of the company the prescribed period, or, if no period be prescribed, not less than forty-eight hours before the time appointed for holding the meeting at which such proxy is to be used.

Votes of joint shareholders.

78. If several persons be jointly entitled to a share, the person whose name stands first in the register of shareholders as one of the holders of such share shall, for the purpose of voting at any meeting, be deemed the sole proprietor thereof; and on all occasions the vote of such first-named shareholder, either in person or by proxy, shall be allowed as the vote in respect of such share, without proof of the concurrence of the other holders thereof.

Votes of lunatics and minors &c.

79. If any shareholder be a lunatic or idiot, such lunatic or idiot may vote by his committee; and if any shareholder be a minor he may vote by his guardian or any one of his guardians; and every such vote may be given either in person or by proxy.

Proof of a particular majority of votes only required in the event of a poll being demanded

80. Whenever in this or the special act the consent of any particular majority of votes at any meeting of the company is required in order to authorize any proceeding of the company, such particular majority shall only be required to be proved in the event of a poll being demanded at such meeting; and if such poll be not demanded, then a declaration by the chairman that the resolution authorizing such proceeding has been carried, and an entry to that effect in the book of proceedings of the company, shall be sufficient authority for such proceeding, without proof of the number or proportion of votes recorded in favour of or against the same.

And with respect to the appointment and rotation of directors, be it enacted as follows: *Appoint-
ment of
directors.*

81. The number of directors shall be the prescribed number.

82. Where the company shall be authorized by the special act to increase or to reduce the number of the directors it shall be lawful for the company, from time to time, in general meeting, after due notice for that purpose, to increase or reduce the number of the directors within the prescribed limits, if any, and to determine the order of rotation in which such reduced or increased number shall go out of office, and what number shall be a quorum at their meetings. *Company
in general
meeting
may vary
the number
of directors.*

83. The directors appointed by the special act shall, unless thereby otherwise provided, continue in office until the first ordinary meeting to be held in the year next after that in which the special act shall have passed; and at such meeting the shareholders present, personally or by proxy, may either continue in office the directors appointed by the special act, or any number of them, or may elect a new body of directors, or directors to supply the places of those not continued in office, the directors appointed by the special act being eligible as members of such new body, and at the first ordinary meeting to be held every year thereafter the shareholders present, personally or by proxy, shall elect persons to supply the places of the directors then retiring from office, agreeably to the provisions hereinafter contained; and the several persons elected at any such meeting, being neither removed nor disqualified, nor having resigned, shall continue to be directors until others are elected in their stead, as hereinafter mentioned. *Directors
appointed
by special
act to con-
tinue in
office for
one year.
Election of
new direct-
ors.*

84. If at any meeting at which an election of directors ought to take place the prescribed quorum shall not be present within one hour from the time appointed for the meeting no election of directors shall be made, but such meeting shall stand adjourned till the following day at the same time and place; and if at the meeting so adjourned the prescribed quorum be not present within one hour from the time appointed for the meeting, the existing directors shall continue to act and retain their powers until new directors be appointed at the first ordinary meeting of the following year. *Existing
directors
continued
on failure
of meeting
for election
of directors.*

85. No person shall be capable of being a director unless he be a shareholder, nor unless he be possessed of the prescribed number, if any, of shares; and no person holding an office or place of trust or profit under the company, or interested in any contract with the company, shall be capable of being a director; and no director shall be capable *Qualifica-
tion of di-
rectors.*

*Appoint-
ment of
directors.*

—
Cases in
which office
of director
shall be-
come va-
cant

Sharehold-
er of an in-
corporated
joint stock
company
not disqua-
lified.

Rotation of
directors.

of accepting any other office or place of trust or profit under the company, or of being interested in any contract with the company, during the time he shall be a director.

86. If any of the directors at any time subsequently to his election accept or continue to hold any other office or place of trust or profit under the company, or be either directly or indirectly concerned in any contract with the company, or participate in any manner in the profits of any work to be done for the company, or if such director at any time cease to be a holder of the prescribed number of shares in the company, then in any of the cases aforesaid the office of such director shall become vacant, and thenceforth he shall cease from voting or acting as a director.

87. Provided always, that no person, being a shareholder or member of any incorporated joint stock company, shall be disqualified or prevented from acting as a director by reason of any contract entered into between such joint stock company and the company incorporated by the special act; but no such director, being a shareholder or member of such joint stock company, shall vote on any question as to any contract with such joint stock company.

88. The directors appointed by the special act, and continued in office as aforesaid, or the directors elected to supply the places of those retiring as aforesaid, shall, subject to the provision hereinbefore contained for increasing or reducing the number of directors, retire from office at the times and in the proportions following, the individuals to retire being in each instance determined by ballot among the directors, unless they shall otherwise agree; (that is to say,)

At the end of the first year after the first election of directors the prescribed number, and if no number be prescribed one-third of such directors, to be determined by ballot among themselves, unless they shall otherwise agree, shall go out of office:

At the end of the second year the prescribed number, and if no number be prescribed one-half of the remaining number of such directors, to be determined in like manner, shall go out of office:

At the end of the third year the prescribed number, and if no number be prescribed the remainder of such directors, shall go out of office:

And in each instance the places of the retiring directors shall be supplied by an equal number of qualified shareholders; and at the first ordinary meeting in every subsequent year the prescribed number, and if no number be prescribed one-third of the directors, being those who have been longest in office, shall go out of office, and their places shall be supplied in like manner; nevertheless every

director so retiring from office may be re-elected immediately or at any future time, and after such re-election shall, with reference to the going out by rotation, be considered as a new director: provided always, that if the prescribed number of directors be some number not divisible by three, and the number of directors to retire be not prescribed, the directors shall in each case determine what number of directors, as nearly one-third as may be, shall go out of office, so that the whole number shall go out of office in three years.

Appointment and rotation of directors.

89. If any director die, or resign, or become disqualified or incompetent to act as a director, or cease to be a director by any other cause than that of going out of office by rotation as aforesaid, the remaining directors, if they think proper so to do, may elect in his place some other shareholder, duly qualified, to be a director; and the shareholder so elected to fill up any such vacancy shall continue in office as a director so long only as the person in whose place he shall have been elected would have been entitled to continue if he had remained in office.

Directors may supply occasional vacancies in their body.

And with respect to the powers of the directors, and the powers of the company to be exercised only in general meeting, be it enacted as follows:

Powers of directors.

90. The directors shall have the management and superintendence of the affairs of the company, and they may lawfully exercise all the powers of the company, except as to such matters as are directed by this or the special act to be transacted by a general meeting of the company, but all the powers so to be exercised shall be exercised in accordance with and subject to the provisions of this and the special act; and the exercise of all such powers shall be subject also to the control and regulation of any general meeting specially convened for the purpose, but not so as to render invalid any act done by the directors prior to any resolution passed by such general meeting.

Powers of the company to be exercised by the directors.

91. Except as otherwise provided by the special act, the following powers of the company, (that is to say,) the choice and removal of the directors, except as hereinbefore mentioned, and the increasing or reducing of their number where authorized by the special act, the choice of auditors, the determination as to the remuneration of the directors, auditors, treasurer, and secretary, the determination as to the amount of money to be borrowed on mortgage, the determination as to the augmentation of capital, and the declaration of dividends, shall be exercised only at a general meeting of the company.

Powers of the company to be exercised only at a general meeting.

And with respect to the proceedings and liabilities of the directors, be it enacted as follows:

Proceedings of directors.

92. The directors shall hold meetings at such times as

Meetings of directors, they shall appoint for the purpose, and they may meet and adjourn as they think proper, from time to time, and from place to place; and at any time any two of the to be called directors may require the secretary to call a meeting by the secretary. of the directors, and in order to constitute a meeting of directors there shall be present at the least the prescribed

Quorum. quorum, and when no quorum shall be prescribed there shall be present at least one-third of the directors; and all questions at any such meeting shall be determined by the majority of votes of the directors present, and in case of an equal division of votes the chairman shall have a casting vote in addition to his vote as one of the directors.

Votes. 93. At the first meeting of directors held after the passing of the special act, and at the first meeting of the Directors to elect permanent chairman. the directors held after each annual appointment of directors, the directors present at such meeting shall choose one of the directors to act as chairman of the directors for the year following such choice, and shall also, if they think Deputy chairman. fit, choose another director to act as deputy chairman for the same period; and if the chairman or deputy chairman die or resign, or cease to be a director, or otherwise become disqualified to act, the directors present at the meeting next after the occurrence of such vacancy shall choose some other of the directors to fill such vacancy; and every such chairman or deputy chairman so elected as last aforesaid shall continue in office so long only as the person in whose place he may be so elected would have been entitled to continue if such death, resignation, removal, or disqualification had not happened.

Occasional chairman of directors. 94. If at any meeting of the directors neither the chairman nor deputy chairman be present the directors present shall choose some one of their number to be chairman of such meeting.

Committees of directors. 95. It shall be lawful for the directors to appoint one or more committees, consisting of such number of directors as they think fit, within the prescribed limits, if any, and Powers of committees. they may grant to such committees respectively power on behalf of the company to do any acts relating to the affairs of the company which the directors could lawfully do, and which they shall from time to time think proper to intrust to them.

Meetings of committees. 96. The said committees may meet from time to time, and may adjourn from place to place, as they think proper, for carrying into effect the purposes of their appointment; and no such committee shall exercise the powers intrusted to them except at a meeting at which there shall be present the prescribed quorum, or if no quorum be prescribed then a quorum to be fixed for that purpose by the general body of directors; and at all meetings of the committees

Quorum.

one of the members present shall be appointed chairman ; Chairman.
 and all questions at any meeting of the committee shall be
 determined by a majority of votes of the members present, Votes.
 and in case of an equal division of votes the chairman
 shall have a casting vote in addition to his vote as a mem-
 ber of the committee.

97. The power which may be granted to any such com- Power to
 mittee to make contracts, as well as the power of the di- make con-
 rectors to make contracts on behalf of the company, may tracts.
 lawfully be exercised as follows ; (that is to say,)

With respect to any contract which, if made between Contracts
 private persons, would be by law required to be in in writing
 writing, and under seal, such committee or the direc- and under
 tors may make such contract on behalf of the com- seal.
 pany in writing, and under the common seal of the
 company, and in the same manner may vary or dis-
 charge the same.

With respect to any contract which, if made between Contracts
 private persons, would be by law required to be in in writing
 writing, and signed by the parties to be charged signed by
 therewith, then such committee or the directors may two direc-
 make such contract on behalf of the company in tors.
 writing, signed by such committee or any two of
 them, or any two of the directors, and in the same
 manner may vary or discharge the same :

With respect to any contract which, if made between Contracts
 private persons, would by law be valid although made by parol
 by parol only, and not reduced into writing, such only, with-
 committee or the directors may make such contract out writing.
 on behalf of the company by parol only, without
 writing, and in the same manner may vary or dis-
 charge the same :

And all contracts made according to the provisions herein Contracts to
 contained shall be effectual in law, and shall be binding be binding
 upon the company and their successors, and all other par- on com-
 ties thereto, their heirs, executors, or administrators, as pany and all
 the case may be ; and on any default in the execution of other
 any such contract, either by the company or any other parties.
 party thereto, such actions or suits may be brought,
 either by or against the company, as might be brought
 had the same contracts been made between private persons
 only.

98. The directors shall cause notes, minutes, or copies, Proceed-
 as the case may require, of all appointments made or con- ings to be
 tracts entered into by the directors, and of the orders and entered in
 proceedings of all meetings of the company, and of the books,
 directors and committees of directors, to be duly entered
 in books, to be from time to time provided for the purpose,
 which shall be kept under the superintendence of the

to be signed by the chairman of such meeting; and every such entry shall be signed by the chairman of such meeting; and such entry, so signed, shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such respective meetings having been duly convened or held, or of the persons making or entering such orders or proceedings being shareholders or directors or members of committee respectively, or of the signature of the chairman, or of the fact of his having been chairman, all of which last-mentioned matters shall be presumed, until the contrary be proved.

Acts of directors to be valid, notwithstanding defects in their appointment.

99. All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall, notwithstanding it may be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were or was disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Directors not to be personally liable.

100. No director, by being party to or executing in his capacity of director any contract or other instrument on behalf of the company, or otherwise lawfully executing any of the powers given to the directors, shall be subject to be sued or prosecuted, either individually or collectively, by any person whomsoever; and the bodies or goods or lands of the directors shall not be liable to execution of any legal process by reason of any contract or other instrument so entered into, signed, or executed by them, or by reason of any other lawful act done by them in the execution of any of their powers as directors; and the directors, their heirs, executors, and administrators, shall be indemnified out of the capital of the company for all payments made or liability incurred in respect of any acts done by them, and for all losses, costs, and damages which they may incur in the execution of the powers granted to them; and the directors for the time being of the company may apply the existing funds and capital of the company for the purposes of such indemnity, and may, if necessary for that purpose, make calls of the capital remaining unpaid, if any.

Directors to be indemnified for all payments made and liabilities incurred.

Auditors.

And with respect to the appointment and duties of auditors, be it enacted as follows:

Election of auditors.

101. Except where by the special act auditors shall be directed to be appointed otherwise than by the company, the company shall, at the first ordinary meeting after the passing of the special act, elect the prescribed number of auditors, and if no number is prescribed two auditors, in like manner as is provided for the election of directors; and at the first ordinary meeting of the company in each

year thereafter the company shall in like manner elect an auditor to supply the place of the auditor then retiring from office, according to the provision hereinafter contained; and every auditor elected as hereinbefore provided, being neither removed nor disqualified, nor having resigned, shall continue to be an auditor until another be elected in his stead. Auditors.
—

102. Where no other qualification shall be prescribed by the special act, every auditor shall have at least one share in the undertaking; and he shall not hold any office in the company, nor be in any other manner interested in its concerns, except as a shareholder. Qualifica-
tion of
auditors.

103. One of such auditors (to be determined in the first instance by ballot between themselves, unless they shall otherwise agree, and afterwards by seniority) shall go out of office at the first ordinary meeting in each year; but the auditor so going out shall be immediately re-eligible, and after any such re-election shall, with respect to the going out of office by rotation, be deemed a new auditor. Rotation of
auditors.

Eligible for
re-election.

104. If any vacancy take place among the auditors in the course of the current year, then at any general meeting of the company the vacancy may, if the company think fit, be supplied by election of the shareholders. Vacancies
in office of
auditor.

105. The provision of this act respecting the failure of an ordinary meeting at which directors ought to be chosen shall apply, "mutatis mutandis," to any ordinary meeting at which an auditor ought to be appointed. Failure of
meeting to
elect audi-
tor.

106. The directors shall deliver to such auditors the half-yearly or other periodical accounts and balance sheet, fourteen days at the least before the ensuing ordinary meeting at which the same are required to be produced to the shareholders as hereinafter provided. Directors
to deliver
balance
sheet &c.
to auditors.

107. It shall be the duty of such auditors to receive from the directors the half-yearly or other periodical accounts and balance sheet required to be presented to the shareholders, and to examine the same. Auditors to
examine ac-
counts.

108. It shall be lawful for the auditors to employ such accountants and other persons as they may think proper, at the expense of the company, and they shall either make a special report on the said accounts, or simply confirm the same; and such report or confirmation shall be read, together with the report of the directors, at the ordinary meeting. Auditors
may employ
account-
ants, &c.
Confirma-
tion of ac-
counts.

And with respect to the accountability of the officers of the company, be it enacted as follows:— Account-
ability of
officers.

109. Before any person intrusted with the custody or control of monies, whether treasurer, collector, or other officer of the company, shall enter upon his office, the Security.

directors shall take sufficient security from him for the faithful execution of his office.

Officers to deliver accounts on demand,

with vouchers and receipts, and pay balance.

Summary remedy against officers failing to account,

by summons before two justices,

who may order payment.

Officers refusing to deliver up documents &c. to be imprisoned.

110. Every officer employed by the company shall from time to time, when required by the directors, make out and deliver to them, or to any person appointed by them for that purpose, a true and perfect account in writing under his hand of all monies received by him on behalf of the company; and such account shall state how, and to whom, and for what purpose such monies shall have been disposed of; and, together with such account, such officer shall deliver the vouchers and receipts for such payments; and every such officer shall pay to the directors, or to any person appointed by them to receive the same, all monies which shall appear to be owing from him upon the balance of such accounts.

111. If any such officer fail to render such account, or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if for three days after being thereunto required he fail to deliver up to the directors, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters, and things, in his possession or power, relating to the execution of this or the special act, or any act incorporated therewith, or belonging to the company, then, on complaint thereof being made to a justice, such justice shall summon such officer to appear before two or more justices at a time and place to be set forth in such summons, to answer such charge; and upon the appearance of such officer, or in his absence upon proof that such summons was personally served upon him, or left at his last known place of abode, such justices may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer; and if it appear, either upon confession of such officer or upon evidence, or upon inspection of the account, that any monies of the company are in the hands of such officer, or owing by him to the company, such justices may order such officer to pay the same; and if he fail to pay the amount it shall be lawful for such justices to grant a warrant to levy the same by distress, or, in default thereof, to commit the offender to gaol, there to remain without bail for a period not exceeding three months, unless the same be sooner paid.

112. If any such officer refuse to make out such account in writing, or to produce and deliver to the justices the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things, in his possession or power, belonging to the company, such justices may lawfully commit such offender

to gaol, there to remain until he shall have delivered up all the vouchers and receipts, if any, in his possession or power, relating to such accounts, and have delivered up all books, papers, writings, property, effects, matters, and things, if any, in his possession or power, belonging to the company.

*Account-
ability of
officers.*
—

113. Provided always, that if any director or other person acting on behalf of the company shall make oath that he has good reason to believe, upon grounds to be stated in his deposition, and does believe, that it is the intention of any such officer as aforesaid to abscond, it shall be lawful for the justice before whom the complaint is made, instead of issuing his summons, to issue his warrant for the bringing such officer before such two justices as aforesaid; but no person executing such warrant shall keep such officer in custody longer than twenty-four hours, without bringing him before some justice; and it shall be lawful for the justice before whom such officer may be brought either to discharge such officer, if he think there is no sufficient ground for his detention, or to order such officer to be detained in custody, so as to be brought before two justices, at a time and place to be named in such order, unless such officer give bail to the satisfaction of such justice for his appearance before such justices to answer the complaint of the company.

*If officer
about to ab-
scond, a
warrant
may be
issued in
the first in-
stance.*

114. No such proceeding against or dealing with any such officer as aforesaid shall deprive the company of any remedy which they might otherwise have against such officer, or any surety of such officer.

*Sureties not
to be dis-
charged.*

And with respect to the keeping of accounts, and the right of inspection thereof by the shareholders, be it enacted as follows:

Accounts.
—

115. The directors shall cause full and true accounts to be kept of all sums of money received or expended on account of the company by the directors and all persons employed by or under them, and of the matters and things for which such sums of money shall have been received or disbursed and paid.

*Accounts to
be kept of
all money
received or
expended.*

116. The books of the company shall be balanced at the prescribed periods, and if no periods be prescribed, fourteen days at least before each ordinary meeting; and forthwith on the books being so balanced an exact balance sheet shall be made up, which shall exhibit a true statement of the capital stock, credits, and property of every description belonging to the company, and the debts due by the company at the date of making such balance sheet, and a distinct view of the profit or loss which shall have arisen on the transactions of the company in the course of the preceding half year: and previously to each ordinary

*Books to be
balanced
and balance
sheet made
up,*

Accounts. — meeting such balance sheet shall be examined by the directors, or any three of their number, and shall be signed by the chairman or deputy chairman of the directors.

Books and balance sheet to be open for the inspection of shareholders at stated times. 117. The books so balanced, together with such balance sheet as aforesaid, shall for the prescribed periods, and if no periods be prescribed for fourteen days previous to each ordinary meeting, and for one month thereafter, be open for the inspection of the shareholders at the principal office or place of business of the company; but the shareholder shall not be entitled at any time, except during the periods aforesaid, to demand the inspection of such books, unless in virtue of a written order signed by three of the directors.

Balance sheet to be produced at meeting. 118. The directors shall produce to the shareholders assembled at such ordinary meeting the said balance sheet, applicable to the period immediately preceding such meeting, together with the report of the auditors thereon, as hereinbefore provided.

Directors to appoint book-keeper, who shall allow inspection of accounts at appointed times. 119. The directors shall appoint a book-keeper to enter the accounts aforesaid in books to be provided for the purpose; and every such book-keeper shall permit any shareholder to inspect such books, and to take copies or extracts therefrom, at any reasonable time during the prescribed periods, and if no periods be prescribed during one fortnight before and one month after every ordinary meeting; and if he fail to permit any such shareholder to inspect such books, or take copies or extracts therefrom, during the periods aforesaid, he shall forfeit to such shareholder for every such offence a sum not exceeding five pounds.

Dividends. — And with respect to the making of dividends, be it enacted as follows:

A scheme to be prepared showing the profits of the company. 120. Previously to every ordinary meeting at which a dividend is intended to be declared the directors shall cause a scheme to be prepared, showing the profits, if any, of the company for the period current since the preceding ordinary meeting at which a dividend was declared, and apportioning the same, or so much thereof as they may consider applicable to the purposes of dividend, among the shareholders, according to the shares held by them respectively, the amount paid thereon, and the periods during which the same may have been paid, and shall exhibit such scheme at such ordinary meeting, and at such meeting a dividend may be declared according to such scheme.

Dividend may be declared according to such scheme. 121. The company shall not make any dividend whereby their capital stock will be in any degree reduced: provided always, that the word "dividend" shall not be

construed to apply to a return of any portion of the capital to reduce stock, with the consent of all the mortgagees and bond capital. creditors of the company, due notice being given for that purpose at an extraordinary meeting to be convened for that object.

122. Before apportioning the profits to be divided Directors among the shareholders the directors may, if they think may set fit, set aside thereout such sum as they may think proper apart a fund to meet contingencies, or for enlarging, repairing, or for contin- improving the works connected with the undertaking, or gencies. any part thereof, and may divide the balance only among the shareholders.

123. No dividend shall be paid in respect of any share Dividend until all calls then due in respect of that and every other not to be share held by the person to whom such dividend may be paid unless payable shall have been paid. calls paid.

And with respect to the making of bye-laws, be it *Bye Laws.* enacted as follows :

124. It shall be lawful for the company from time to Company time to make such bye-laws as they think fit, for the pur- may make pose of regulating the conduct of the officers and servants bye-laws of the company, and for providing for the due manage- for regulat- ment of the affairs of the company in all respects whatso- ing the ever, and from time to time to alter or repeal any such conduct of bye-laws, and make others, provided such bye-laws be their offi- not repugnant to the laws of that part of the United cers and Kingdom where the same are to have effect, or to the servants. provisions of this or the special act; and such bye-laws shall be reduced into writing, and shall have affixed thereto Copies to the common seal of the company; and a copy of such be given to bye-laws shall be given to every officer and servant of the officers &c. company affected thereby.

125. It shall be lawful for the company, by such bye- Fines may laws, to impose such reasonable penalties upon all persons, be imposed being officers or servants of the company, offending against for breach such bye-laws, as the company think fit, not exceeding of such five pounds for any one offence. bye-laws.

126. All the bye-laws to be made by the company shall Bye-laws to be so framed as to allow the justice before whom any be so framed penalty imposed thereby may be sought to be recovered that penal- to order a part only of such penalty to be paid, if such ties may be justice shall think fit. mitigated.

127. The production of a written or printed copy of Evidence of the bye-laws of the company, having the common seal of bye-laws. the company affixed thereto, shall be sufficient evidence of such bye-laws in all cases of prosecution under the same.

And with respect to the settlement of disputes by arbi- Arbitra- tration, be it enacted as follows : tion.

Where questions are to be determined by arbitration, arbitrators to be appointed within fourteen days after notice.

On failure of one party the other may appoint arbitrator to act on behalf of both.

If any arbitrator die or refuse to act, another may be nominated.

On failure, the remaining arbitrator may proceed.

Arbitrators to appoint umpire.

If umpire die or refuse to act, another to be appointed.

In the case of railways, Board of Trade may appoint an umpire, on neglect of

128. When any dispute authorized or directed by this or the special act, or any act incorporated therewith, to be settled by arbitration, shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall by writing under his hand nominate and appoint an arbitrator to whom such dispute shall be referred; and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as such revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single arbitrator shall be final.

129. If before the matters so referred shall be determined any arbitrator appointed by either party die, or become incapable or refuse or for seven days neglect to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so the remaining or other arbitrator may proceed ex parte; and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal, or disability as aforesaid.

130. Where more than one arbitrator shall have been appointed such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ; and if such umpire shall die, or refuse or for seven days neglect to act, they shall forthwith after such death, refusal, or neglect appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

131. If in either of the cases aforesaid the said arbitrators shall refuse, or shall, for seven days after request of either party to such arbitration, neglect to appoint an umpire, it shall be lawful for the Board of Trade, if they think fit, in any case in which a railway company shall be one party to the arbitration, on the application of either

party to such arbitration, to appoint an umpire; and the the arbitra-
decision of such umpire on the matters on which the arbi- tors.
trators shall differ shall be final.

132. The said arbitrators or their umpire may call for Arbitrators
the production of any documents in the possession or may call for
power of either party which they or he may think ne- documents
cessary for determining the question in dispute, and may and a dmi-
examine the parties or their witnesses on oath, and ad- nisteroaths.
minister the oaths necessary for that purpose.

133. Except where by this or the special act, or any Costs to be
act incorporated therewith, it shall be otherwise provided, in the dis-
the costs of and attending every such arbitration to be cretion of
determined by the arbitrators shall be in the discretion of the arbitra-
the arbitrators or their umpires, as the case may be. tors.

134. The submission to any such arbitration may be Submission
made a rule of any of the superior courts, on the applica- to arbitra-
tion of either of the parties. tion.

And with respect to the giving of notices, be it enacted Notices.
as follows:

135. Any summons or notice, or any writ, or other Service of
proceeding, at law or in equity, requiring to be served notices
upon the company, may be served by the same being left upon com-
at, or transmitted through the post directed to the princi- pany.
pal office of the company, or one of their principal offices,
where there shall be more than one, or being given per-
sonally to the secretary, or in case there be no secretary
then by being given to any one director of the company.

136. Notices requiring to be served by the company Service of
upon the shareholders may, unless expressly required to notices by
be served personally, be served by the same being trans- company on
mitted through the post directed according to the regis- sharehold-
tered address or other known address of the shareholder, ers.
within such period as to admit of its being delivered in
the due course of delivery within the period (if any)
prescribed for the giving of such notice; and in proving
such service it shall be sufficient to prove that such notice
was properly directed, and that it was so put into the
post-office.

137. All notices directed to be given to the sharehold- Notices to
ers shall, with respect to any share to which persons are joint pro-
jointly entitled, be given to whichever of the said persons prietors of
shall be named first in the register of shareholders; and shares.
notice so given shall be sufficient notice to all the pro-
prietors of such share.

138. All notices required by this or the special act, or Notices by
any act incorporated therewith, to be given by advertise- advertise-
ment, shall be advertised in the prescribed newspaper, or ment.
if no newspaper be prescribed, or if the prescribed news-
paper cease to be published, in a newspaper circulating in

Notices. — the district within which the company's principal place of business shall be situated.

Authentication of notices. 139. Every summons, notice, or other such document requiring authentication by the company, may be signed by two directors, or by the treasurer or the secretary of the company, and need not be under the common seal of the company, and the same may be in writing or in print, or partly in writing and partly in print.

Proof of debts in bankruptcy. — 140. And be it enacted, That if any person against whom the company shall have any claim or demand become bankrupt, or take the benefit of any act for the relief of insolvent debtors, it shall be lawful for the secretary or treasurer of the company, in all proceedings against the estate of such bankrupt or insolvent, or under any fiat, sequestration, or act of insolvency against such bankrupt or insolvent, to represent the company, and act in their behalf, in all respects as if such claim or demand had been the claim or demand of such secretary or treasurer, and not of the company.

Tender of amends. — 141. And be it enacted, That if any party shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the special act, or by virtue of any power or authority thereby given, and if, before action brought in respect thereof, such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action; and if no such tender shall have been made it shall be lawful for the defendant, by leave of the court where such action shall be pending, at any time before issue joined, to pay into court such sum of money as he shall think fit; and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

Recovery of damages and penalties. — And with respect to the recovery of damages not specially provided for, and penalties, be it enacted as follows:

Damages not otherwise provided for may be ascertained by justices, and recovered by distress of goods of company. 142. In all cases where any damages, costs, or expenses are by this or the special act, or any act incorporated therewith, directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined by two justices; and if the amount so ascertained be not paid by the company or other party liable to pay the same within seven days after demand, the amount may be recovered by distress of the goods of the company, or other party liable as aforesaid; and the justices by whom the same shall have been ordered to be paid, or either of them, on application shall issue their or his warrant accordingly.

143. If sufficient goods of the company cannot be found whereon to levy any such damages, costs, or expenses, payable by the company, the same may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the company; and the justices aforesaid, or either of them, on application, shall issue their or his warrant accordingly; but no such distress shall issue against the goods of such treasurer unless seven days' previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer, or left at his residence; and if such treasurer pay any money under such distress as aforesaid, he may retain the amount so paid by him, and all costs and expenses occasioned thereby, out of any money belonging to the company coming into his custody or control, or he may sue the company for the same.

If goods of company cannot be found, then by distress of goods of treasurer.
Notice to treasurer.
Treasurer may sue the company.

144. Where in this or the special act, or any act incorporated therewith, any question of compensation, expenses, charges, or damages is referred to the determination of any one justice, or more, it shall be lawful for any justice, upon the application of either party, to summon the other party to appear before one justice, or before two justices, as the case may require, at a time and place to be named in such summons; and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such one justice, or such two justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses, on oath; and the costs of every such inquiry shall be in the discretion of such justices, and they shall determine the amount thereof.

Proceedings before justices in questions of damages.
Upon appearance or proof of service, justices may determine.

145. The company shall publish the short particulars of the several offences for which any penalty is imposed by this or the special act, or any act incorporated therewith, or by any bye-law of the company affecting other persons than the shareholders, officers, or servants of the company, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, or printed upon paper and pasted thereon, and shall cause such board to be hung up or affixed on some conspicuous part of the principal place of business of the company, and where any such penalties are of local application shall cause such boards to be affixed in some conspicuous place in the immediate neighbourhood to which such penalties are applicable or have reference; and such particulars shall be renewed as often as the same or any part thereof is obliterated or destroyed; and no such penalty shall be re-

Company to publish short particulars of offences for which any penalty is imposed, and affix in conspicuous places, and renew when obliterated.

coverable unless it shall have been published and kept published in the manner hereinbefore required.

Penalty for defacing boards used for such publication.

146. If any person pull down or injure any board put up or affixed as required by this or the special act, or any act incorporated therewith, for the purpose of publishing any bye-law or penalty, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

Penalties may be recovered before two justices, by summons.

147. Every penalty or forfeiture imposed by this or the special act, or any act incorporated therewith, or by any bye-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before two justices; and on complaint being made to any justice, he shall issue a summons, requiring the party complained against to appear before two justices at a time and place to be named in such summons; and every such summons shall be served on the party offending, either in person or by leaving the same with some inmate at his usual place of abode; and upon the appearance of the party complained against, or in his absence, after proof of the due service of such summons, it shall be lawful for two justices to proceed to the hearing of the complaint, and that although no information in writing or in print shall have been exhibited before them, and upon proof of the offence, either by the confession of the party complained against or upon the oath of one credible witness or more, it shall be lawful for such justices to convict the offender, and upon such conviction to adjudge the offender to pay the penalty or forfeiture incurred, as well as such costs attending the conviction as such justices shall think fit.

Upon appearance or proof of service, justices may convict.

Penalties may be levied by distress.

148. If forthwith upon any such adjudication as aforesaid, the amount of the penalty or forfeiture, and of such costs as aforesaid, be not paid, the amount of such penalty and costs shall be levied by distress; and such justices, or either of them, shall issue their or his warrant of distress accordingly.

Justice may detain offenders until return be made to warrant of distress.

149. It shall be lawful for any such justice to order any offender so convicted as aforesaid to be detained and kept in safe custody until return can be conveniently made to the warrant of distress to be issued for levying such penalty or forfeiture, and costs, unless the offender give sufficient security, by way of recognizance or otherwise, to the satisfaction of the justice, for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such security; but if before issuing such warrant of distress it shall appear to the justice, by the admission of the offender

or otherwise, that no sufficient distress can be had within the jurisdiction of such justice whereon to levy such penalty or forfeiture, and costs, he may, if he thinks fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to the justice, then such justice shall, by warrant, cause such offender to be committed to gaol, there to remain without bail for any term not exceeding three months, unless such penalty or forfeiture, and costs, be sooner paid and satisfied.

If no sufficient distress can be had, offenders may be imprisoned.

150. Where in this or the special act, or any act incorporated therewith, any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Distress to be levied by sale of goods and chattels of offender.

Overplus to be repaid.

151. No distress levied by virtue of this or the special act, or any act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser "ab initio" on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

Distress not to be deemed unlawful for want of form.

152. The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed, for the benefit of the poor of such parish; or if the place wherein the offence shall have been committed shall be extra-parochial, then such justices shall direct such remainder to be applied for the benefit of the poor of such extra-parochial place, or of any adjoining parish or district, and shall order the same to be paid over to the proper officer for that purpose.

Justices may award penalties. One half to the informer and remainder to overseers of the poor.

153. No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this or the special act, or any act incorporated therewith, for any offence made cognizable before a justice, unless the complaint respecting such offence shall have been made before such justice within six months next after the commission of such offence.

Penalties to be sued for within six months.

Damage to property of company to be made good in addition to penalty.

154. If, through any act, neglect, or default on account whereof any person shall have incurred any penalty imposed by this or the special act, or any act incorporated therewith, any damage to the property of the company shall have been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty; and the amount of such damages shall, in case of dispute, be determined by the justices by whom the party incurring such penalty shall have been convicted; and on nonpayment of such damages, on demand, the same shall be levied by distress, and such justices, or one of them, shall issue their or his warrant accordingly.

Justice may summon witnesses.

155. It shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction, under the provisions of this or the special act, or any act incorporated therewith, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence.

Witnesses making default, to forfeit not exceeding 5*l*.

Officers of company may detain offenders whose names and residence shall be unknown.

156. It shall be lawful for any officer or agent of the company, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this or the special act, or any act incorporated therewith, and whose name and residence shall be unknown to such officer or agent, and convey him, with all convenient despatch, before some justice, without any warrant or other authority than this or the special act; and such justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Form of conviction.

157. The justices before whom any person shall be convicted of any offence against this or the special act, or any act incorporated therewith, may cause the conviction to be drawn up according to the form in the schedule (G.) to this act annexed.

Proceedings not to be vacated.

158. No proceeding in pursuance of this or the special act, or any act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts.

Appeal.

Parties ag-

159. If any party shall feel aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture under the provisions of this or the

special act, or any act incorporated therewith, such party **grieved may** :may appeal to the general quarter sessions for the county **appeal to** or place in which the cause of appeal shall have arisen; **quarter** but no such appeal shall be entertained unless it be made **sessions.** within four months next after the making of such determination or adjudication, nor unless ten days' notice in **Notice.** writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith after such notice enter into recognizances, with two sufficient **Security.** sureties, before a justice, conditioned duly to prosecute such appeal, and to abide the order of the court thereon.

160. At the quarter sessions for which such notice shall **Court to** be given the court shall proceed to hear and determine the **hear the** appeal in a summary way, or they may, if they think fit, **appeal and** adjourn it to the following sessions; and upon the hearing **make such** of such appeal the court may, if they think fit, mitigate **order as** any penalty or forfeiture, or they may confirm or quash **they think** the adjudication, and order any money paid by the appel- **reasonable.** lant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

And with respect to the provision to be made for afford- **Access to** ing access to the special act by all parties interested, be it **special** enacted as follows: **act.**

161. The company shall, at all times after the expiration of six months after the passing of the special act, keep in their principal office of business a copy of the special act, printed by the printers to her Majesty, or some of them; and where the undertaking shall be a railway, canal, or other like undertaking, the works of which shall not be confined to one town or place, shall also, within the space of such six months, deposit in the office of each of the **Copies of** clerks of the peace of the several counties into which the **special act** works shall extend, and in the office of the town clerk of **to be kept** every burgh or city into which or within one mile of which **at principal** the works shall extend, a copy of such special act so printed **office,** as aforesaid; and the said clerks of the peace and town **and depo-** clerks shall receive, and they and the company respectively **sited with** shall retain, the said copies of the special act, and shall **clerks of** permit all persons interested to inspect the same, and make **the peace** extracts or copies therefrom, in the like manner and upon **and town** the like terms and under the like penalty for default, as is **clerks.** provided in the case of certain plans and sections, by an **Inspection.** act passed in the first year of the reign of her present **7 W. 4 &** majesty, intituled "An Act to compel Clerks of the Peace **1 Vict.c.83.**

for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

Penalty on company failing to keep copies. 162. If the company shall fail to keep or deposit as hereinbefore mentioned any of the said copies of the special act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

Scotland. 163. And be it enacted, That this act shall not extend to Scotland.

Shareholders residing in Scotland may be proceeded against as provided by 8 Vict. c. 17. 164. Provided always, and be it enacted, That if any shareholder residing in Scotland shall fail to pay the amount of any call made upon him by the company in respect of any share held by him, it shall be lawful for the company to proceed against him in Scotland, and to sue for and recover the amount of such call, or to declare such share forfeited, in such manner as is by "The Companies' Clauses Consolidation (Scotland) Act, 1845," in case the same shall pass into a law, provided in regard to shareholders of any company in Scotland.

Act may be amended or repealed. 165. And be it enacted, That this act may be amended or repealed by any act to be passed in this session of parliament.

SCHEDULES referred to by the foregoing Act.

A.
Form of
certificate
of share.

A.—Form of Certificate of Share.

"The Company."

Number

THIS is to certify, that A.B. of is the proprietor of the share Number of "The Company," subject to the regulations of the said company. Given under the common seal of the said company, the day of in the year of our Lord

B.
Form of
transfer of
shares or
stock.

B.—Form of Transfer of Shares or Stock.

I of in consideration of the sum of paid to me by of do hereby transfer to the said share [or shares], numbered in the undertaking called "The Company" [or pounds consolidated stock in the undertaking called "The Company," standing (or part of the stock standing) in my name in the books of the company], to hold unto the said

. . . . his executors, administrators, and assigns [or *Schedules.*
successors and assigns], subject to the several conditions
on which I held the same at the time of the execution
hereof; and I the said do hereby agree to
take the said share [or shares] [or stock], subject to the
same conditions. As witness our hands and seals, the
. . . . day of

C.—*Form of Mortgage Deed.*

C.
Form of
Mortgage
deed.

"The Company."
Mortgage, Number £
By virtue of [here name the special act], we "The
Company," in consideration of the sum of
pounds paid to us by A.B. of do assign unto
the said A.B., his executors, administrators, and assigns,
the said undertaking, [and (in case such loan shall be in
anticipation of the capital authorized to be raised) all
future calls on shareholders], and all the tolls and sums of
money arising by virtue of the said act, and all the estate,
right, title, and interest of the company in the same; to
hold unto the said A.B., his executors, administrators, and
assigns, until the said sum of pounds, toge-
ther with interest for the same at the rate of
for every one hundred pounds by the year, be satisfied
[the principal sum to be repaid at the end of
years from the date hereof (in case any period be agreed
upon for that purpose),] [at or any place of
payment other than the principal office of the company].
Given under our common seal, this day of
. in the year of our Lord

D.—*Form of Bond.*

D.
Form of
Bond.

"The Company."
Bond, Number £
By virtue of [here name the special act], we, "The
Company," in consideration of the sum of
pounds to us in hand paid by A.B. of do
bind ourselves and our successors unto the said A.B., his
executors, administrators, and assigns, in the penal sum
of pounds.

The condition of the above obligation is such, that if
the said company shall pay to the said A.B., his executors,
administrators, or assigns, [at (in case any
other place of payment than the principal office of the
company be intended),] on the day of
which will be in the year one thousand eight hundred and

Scheduies. the principal sum of pounds,
together with interest for the same at the rate of
pounds per centum per annum, payable half-yearly on the
. . . . day of and day of
. . . . then the above-written obligation is to become
void, otherwise to remain in full force. Given under our
common seal, this day of one
thousand eight hundred and

E. *E.—Form of Transfer of Mortgage or Bond.*
Form of transfer of mortgage or bond. I, A.B. of in consideration of the sum of
. . . . paid to me by G.H. of do hereby
transfer to the said G.H., his executors, administrators,
and assigns, a certain bond [or mortgage] number
made by "The Company" to
bearing date the day of for
securing the sum of and interest
[or, if such transfer be by endorsement, the within secu-
rity], and all my right, estate, and interest in and to the
money thereby secured [and if the transfer be of a mort-
gage, and in and to the tolls, money, and property thereby
assigned]. In witness whereof I have hercunto set my
hand and seal, this day of one
thousand eight hundred and

F. *F.—Form of Proxy.*
Form of proxy. A.B. one of the proprietors of "The
. . . . Company," doth hereby appoint C.D. of
. . . . to be the proxy of the said A.B., in his
absence to vote in his name upon any matter relating to
the undertaking proposed at the meeting of the proprietors
of the said company to be held on the day
of next, in such manner as he the said C.D.
doth think proper. In witness whereof the said A.B. hath
hereunto set his hand [or, if a corporation, say the common
seal of the corporation], the day of
one thousand eight hundred and

G. *G.—Form of Conviction.*
Form of conviction. to wit.
BE it remembered, That on the day of
in the year of our Lord A.B. is convicted
before us C., D., two of her Majesty's justices of the peace
for the county of [here describe the offence
generally, and the time and place when and where com-

mitted], contrary to the [here name the special act]. *Schedules.*
 Given under our hands and seals, the day and year first —
 above written.

C. . . .
 D. . . .

8 VICT. cap. 18.

An Act for consolidating in One Act certain provisions usually inserted in Acts authorizing the taking of lands for Undertakings of a Public Nature.
 [8th May, 1845.]

WHEREAS it is expedient to comprise in one general act Preamble.
 sundry provisions usually introduced into acts of Parliament relative to the acquisition of lands required for undertakings or works of a public nature, and to the compensation to be made for the same, and that as well for the purpose of avoiding the necessity of repeating such provisions in each of the several acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves,

1. May it therefore please your Majesty that it may be enacted; and be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That this act shall apply to every undertaking authorized by any act which shall hereafter be passed, and which shall authorize the purchase or taking of lands for such undertaking, and this act shall be incorporated with such act; and all the clauses and provisions of this act, save so far as they shall be expressly varied or excepted by any such act, shall apply to the undertaking authorized thereby, so far as the same shall be applicable to such undertaking, and shall, as well as the clauses and provisions of every other act which shall be incorporated with such act, form part of such act, and be construed, together therewith, as forming one act. *Act to apply to all undertakings authorized by acts hereafter to be passed.*

And with respect to the construction of this act and of acts to be incorporated therewith, be it enacted as follows: *Interpretations in this act.*

2. The expression "the special act," used in this act, shall be construed to mean any act which shall be hereafter passed which shall authorize the taking of lands for the undertaking to which the same relates, and with which this act shall be so incorporated as aforesaid; and the *"Special act."*

"prescribed." ed."	word "prescribed," used in this act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special act, and the sentence in which such word shall occur shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special act" had been used; and the expression "the works" or "the undertaking" shall mean the works or undertaking, of whatever nature, which shall by the special act be authorized to be executed; and the expression "the promoters of the undertaking" shall mean the parties, whether company, undertakers, commissioners, trustees, corporations, or private persons, by the special act empowered to execute such works or undertaking.
"the works."	
"promoters of the undertaking."	
<i>Interpretations in this and the special act.</i>	3. The following words and expressions, both in this and the special act, shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction; (that is to say,)
Number.	Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number:
Gender.	Words importing the masculine gender only shall include females.
"Lands."	The word "lands" shall extend to messuages, lands, tenements, and hereditaments of any tenure:
"Lease."	The word "lease" shall include an agreement for a lease:
"Month."	The word "month" shall mean calendar month:
"Superior courts."	The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require
"Oath."	The word "oath" shall include affirmation in the case of quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath:
"County."	The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town:
"The sheriff."	The word "sheriff" shall include under sheriff, or other legally competent deputy; and where any matter in relation to any lands is required to be done by any sheriff, or by any clerk of the peace, the expression "the sheriff," or the expression "the clerk of the peace," shall in such case be construed to mean the sheriff or the clerk of the peace of the county, city, borough, liberty, cinque port, or place where such lands shall be situate; and if the lands in question, being the property of one and the same party, be
"The clerk of the peace."	

situate not wholly in one county, city, borough, liberty, cinque port, or place, the same expression shall be construed to mean the sheriff or clerk of the peace of any county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate:

Interpretations in this and the special act.

The word "justices" shall mean justices of the peace acting for the county, city, liberty, cinque port, or place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter; and where such matter shall arise in respect of lands being the property of one and the same party, situate not wholly in any one county, city, borough, liberty, cinque port, or place, the same shall mean a justice acting for the county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate, and who shall not be interested in such matter; and where any matter shall be authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together.

"Justices."

"Two justices."

Where under the provisions of this or the special act, or any act incorporated therewith, any notice shall be required to be given to the owner of any lands, or where any act shall be authorized or required to be done with the consent of any such owner, the word "owner" shall be understood to mean any person or corporation who, under the provisions of this or the special act, would be enabled to sell and convey lands to the promoters of the undertaking:

"Owner."

The expression "the bank" shall mean the Bank of England where the same shall relate to monies to be paid or deposited in respect of lands situate in England, and shall mean the Bank of Ireland where the same shall relate to monies to be paid or deposited in respect of lands situate in Ireland.

4. And be it enacted, That in citing this act in other acts of parliament, and in legal instruments, it shall be sufficient to use the expression "The Lands' Clauses Consolidation Act, 1845."

Short title of the act.

5. And whereas it may be convenient in some cases to incorporate with acts of parliament hereafter to be passed some portion only of the provisions of this act; be it therefore enacted, That, for the purpose of making any such incorporation, it shall be sufficient in any such act to enact that the clauses of this act with respect to the matter so proposed to be incorporated (describing such matter as it is described in this act in the words introductory to the enactment with respect to such matter,) shall be incor-

Form in which portions of this act may be incorporated with other acts.

perated with such act, and thereupon all the clauses and provisions of this act with respect to the matter so incorporated shall, save so far as they shall be expressly varied or excepted by such act, form part of such act, and such act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such act shall relate.

*Purchase
of lands
by agree-
ment.*

And with respect to the purchase of lands by agreement, be it enacted as follows :

Promoters
may pur-
chase by
agreement
lands au-
thorized by
special act.

6. Subject to the provisions of this and the special act it shall be lawful for the promoters of the undertaking to agree with the owners of any lands by the special act authorized to be taken, and which shall be required for the purposes of such act, and with all parties having any estate or interest in such lands, or by this or the special act enabled to sell and convey the same, for the absolute purchase, for a consideration in money, of any such lands, or such parts thereof as they shall think proper, and of all estates and interests in such lands of what kind soever.

Parties en-
titled to any
such lands
empowered
to sell the
same to the
promoters,
and to enter
into all
necessary
agree-
ments.

7. It shall be lawful for all parties, being seised, possessed of, or entitled to any such lands, or any estate or interest therein, to sell and convey or release the same to the promoters of the undertaking, and to enter into all necessary agreements for that purpose; and particularly it shall be lawful for all or any of the following parties so seised, possessed, or entitled as aforesaid so to sell, convey, or release; (that is to say,) all corporations, tenants in tail or for life, married women seised in their own right or entitled to dower, guardians, committees of lunatics and idiots, trustees or feoffees in trust for charitable or other purposes, executors and administrators, and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower, or to any lease for life, or for lives and years, or for years, or any less interest; and the power so to sell and convey or release as aforesaid may lawfully be exercised by all such parties, other than married women entitled to dower, or lessees for life, or for lives and years, or for years, or for any less interest, not only on behalf of themselves and their respective heirs, executors, administrators, and successors, but also for and on behalf of every person entitled in reversion, remainder, or expectancy after them, or in defeasance of the estates of such parties, and as to such married women, whether they be of full age or not, as if they were sole and of full age, and as to such guardians, on behalf of their wards, and as to such committees, on behalf of the lunatics and idiots of whom they are the committees respectively, and that to the same

Parties
having
limited in-
terests ena-
bled to sell
and convey.

extent as such wives, wards, lunatics and idiots respectively could have exercised the same power under the authority of this or the special act if they had respectively been under no disability, and as to such trustees, executors, and administrators, on behalf of their cestuique trusts, whether infants, issue unborn, lunatics, femmes covert, or other persons, and that to the same extent as such cestuique trusts respectively could have exercised the same powers under the authority of this and the special act if they had respectively been under no disability.

*Purchase of
lands by
agree-
ment.*

8. The power hereinafter given to enfranchise copyhold lands, as well as every other power required to be exercised by the lord of any manor pursuant to the provisions of this or the special act, or any act incorporated therewith, and the power to release lands from any rent, charge, or incumbrance, and to agree for the apportionment of any such rent, charge, or incumbrance, shall extend to and may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands to the promoters of the undertaking.

*Parties
under dis-
ability em-
powered to
enfranchise
copyholds,
release
lands from
rent charge
&c.*

9. The purchase money or compensation to be paid for any lands to be purchased or taken from any party under any disability or incapacity, and not having power to sell or convey such lands except under the provisions of this or the special act, and the compensation to be paid for any permanent damage or injury to any such lands, shall not, except where the same shall have been determined by the verdict of a jury, or by arbitration, or by the valuation of a surveyor appointed by two justices under the provision hereinafter contained, be less than shall be determined by the valuation of two able practical surveyors, one of whom shall be nominated by the promoters of the undertaking, and the other by the other party, and if such two surveyors cannot agree in the valuation, then by such third surveyor as any two justices shall upon application of either party, after notice to the other party, for that purpose nominate; and each of such two surveyors if they agree, or if not then the surveyor nominated by the said justices, shall annex to the valuation a declaration in writing, subscribed by them or him, of the correctness thereof; and all such purchase money or compensation shall be deposited in the bank for the benefit of the parties interested, in manner hereinafter mentioned.

*Amount of
compensa-
tion in case
of parties
under dis-
ability to be
ascertained
by valua-
tion.*

*Purchase
money to
be paid into
the bank.*

10. It shall be lawful for any person seised in fee of, or entitled to dispose of absolutely for his own benefit, any lands authorized to be purchased for the purposes of the special act to sell and convey such lands or any part thereof unto the promoters of the undertaking, in consideration of an annual rent-charge payable by the pro-

*Vendors
absolutely
entitled
may sell
lands on
chief rents.*

moters of the undertaking, but, except as aforesaid, the consideration to be paid for the purchase of any such lands, or for any damage done thereto, shall be in a gross sum.

Chief rents to be charged on tolls.

If unpaid may be recovered by action of debt, or levied by distress.

Lands required for additional accommodation may be purchased.

Promoters may sell such lands, and purchase other lands for the like purposes.

Promoters not to purchase more than the prescribed quantity of land from parties under disability.

Municipal corporations not to

11. The yearly rents reserved by any such conveyance shall be charged on the tolls or rates, if any, payable under the special act, and shall be otherwise secured in such manner as shall be agreed between the parties, and shall be paid by the promoters of the undertaking as such rents become payable, and if at any time any such rents be not paid within thirty days after they so become payable, and after demand thereof in writing, the person to whom any such rent shall be payable may either recover the same from the promoters of the undertaking, with costs of suit, by action of debt in any of the superior courts, or it shall be lawful for him to levy the same by distress of the goods and chattels of the promoters of the undertaking.

12. In case the promoters of the undertaking shall be empowered by the special act to purchase lands for extraordinary purposes, it shall be lawful for all parties who, under the provisions hereinbefore contained, would be enabled to sell and convey lands, to sell and convey the lands so authorized to be purchased for extraordinary purposes.

13. It shall be lawful for the promoters of the undertaking to sell the lands which they shall have so acquired for extraordinary purposes, or any part thereof, in such manner, and for such considerations, and to such persons, as the promoters of the undertaking may think fit, and again to purchase other lands for the like purposes, and afterwards sell the same, and so from time to time; but the total quantity of land to be held at any one time by the promoters of the undertaking, for the purposes aforesaid, shall not exceed the prescribed quantity.

14. The promoters of the undertaking shall not, by virtue of the power to purchase land for extraordinary purposes, purchase more than the prescribed quantity from any party under legal disability, or who would not be able to sell and convey such lands except under the powers of this and the special act; and if the promoters of the undertaking purchase the said quantity of land from any party under such legal disability, and afterwards sell the whole or any part of the land so purchased, it shall not be lawful for any party being under legal disability to sell to the promoters of the undertaking any other lands in lieu of the land so sold or disposed of by them.

15. Nothing in this or the special act contained shall enable any municipal corporation to sell for the purposes of the special act, without the approbation of the commis-

sioners of her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, or any three of them, any lands which they could not have sold without such approbation before the passing of the special act, other than such lands as the company are by the powers of this or the special act empowered to purchase or take compulsorily.

And with respect to the purchase and taking of lands otherwise than by agreement, be it enacted as follows:

16. Where the undertaking is intended to be carried into effect by means of a capital to be subscribed by the promoters of the undertaking, the whole of the capital or estimated sum for defraying the expenses of the undertaking shall be subscribed under contract binding the parties thereto, their heirs, executors, and administrators, for the payment of the several sums by them respectively subscribed, before it shall be lawful to put in force any of the powers of this or the special act, or any act incorporated therewith, in relation to the compulsory taking of land for the purposes of the undertaking.

17. A certificate under the hands of two justices, certifying that the whole of the prescribed sum has been subscribed, shall be sufficient evidence thereof, and on the application of the promoters of the undertaking, and the production of such evidence as such justices think proper and sufficient, such justices shall grant such certificate accordingly.

[As to lands in Ireland, see 14 & 15 Vict. c. 70.]

18. When the promoters of the undertaking shall require to purchase or take any of the lands which by this or the special act, or any act incorporated therewith, they are authorized to purchase or take, they shall give notice thereof to all the parties interested in such lands, or to the parties enabled by this act to sell and convey or release the same, or such of the said parties as shall, after diligent inquiry, be known to the promoters of the undertaking, and by such notice shall demand from such parties the particulars of their estate and interest in such lands, and of the claims made by them in respect thereof; and every such notice shall state the particulars of the lands so required, and that the promoters of the undertaking are willing to treat for the purchase thereof, and as to the compensation to be made to all parties for the damage that may be sustained by them by reason of the execution of the works.

19. All notices required to be served by the promoters of the undertaking upon the parties interested in or entitled to sell any such lands shall either be served personally on such parties or left at their last usual place of abode, if any such can after diligent inquiry be found, and in case any such parties shall be absent from the United Kingdom, or

Purchase of lands otherwise than by agreement.

Capital to be subscribed before compulsory powers put in force.

Certificate of justices evidence that capital has been subscribed.

Promoters to give notice of their intention to take lands to all the parties interested.

Notice to state particulars of the lands required.

Notices to, to be served personally or left at their places of abode.

Occupiers. cannot be found after diligent inquiry, shall also be left with the occupier of such lands, or, if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

Notices to corporations to be left at their principal office. 20. If any such party be a corporation aggregate such notice shall be left at the principal office of business of such corporation, or if no such office can after diligent inquiry be found, shall be served on some principal member, if any, of such corporation, and such notice shall also be left with the occupier of such lands, or, if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

If parties fail to treat, or disagree as to compensation, the amount to be settled in manner hereinafter provided. 21. If, for twenty-one days after the service of such notice, any such party shall fail to state the particulars of his claim in respect of any such land, or to treat with the promoters of the undertaking in respect thereof, or if such party and the promoters of the undertaking shall not agree as to the amount of the compensation to be paid by the promoters of the undertaking for the interest in such lands belonging to such party, or which he is by this or the special act enabled to sell, or for any damage that may be sustained by him by reason of the execution of the works, the amount of such compensation shall be settled in the manner hereinafter provided for settling cases of disputed compensation.

Disputes as to compensation not exceeding 50*l.* to be settled by two justices. 22. If no agreement be come to between the promoters of the undertaking and the owners of or parties by this act enabled to sell and convey or release any lands taken or required for or injuriously affected by the execution of the undertaking, or any interest in such lands, as to the value of such lands or of any interest therein, or as to the compensation to be made in respect thereof, and if in any such case the compensation claimed shall not exceed fifty pounds, the same shall be settled by two justices.

Compensation exceeding 50*l.* may be settled by arbitration if desired by the party claiming. 23. If the compensation claimed or offered in any such case shall exceed fifty pounds, and if the party claiming compensation desire to have the same settled by arbitration, and signify such desire by notice in writing to the promoters of the undertaking, before they have issued their warrant to the sheriff to summon a jury in respect of such lands, under the provisions hereinafter contained, stating in such notice the nature of the interest in respect of which such party claims compensation, and the amount of the compensation so claimed, the same shall be so settled accordingly ; but unless the party claiming compensation shall as aforesaid signify his desire to have the question of such compensation settled by arbitration, or if when the matter shall have been referred to arbitration the arbitrators or their umpire shall for three months have failed to make their or his award, or if no final award shall be made,

the question of such compensation shall be settled by the verdict of a jury, as hereinafter provided.

24. It shall be lawful for any justice, upon the application of either party with respect to any question of disputed compensation by this or the special act, or any act incorporated therewith, authorized to be settled by two justices, to summon the other party to appear before two justices, at a time and place to be named in the summons, and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such justices to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses, upon oath, and the costs of every such inquiry shall be in the discretion of such justices, and they shall settle the amount thereof.

In questions of disputed compensation justices may issue summons, and upon appearance or proof of service determine.

25. When any question of disputed compensation by this or the special act, or any act incorporated therewith, authorized or required to be settled by arbitration, shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator, to whom such dispute shall be referred; and every appointment of an arbitrator shall be made on the part of the promoters of the undertaking under the hands of the said promoters or any two of them, or of their secretary or clerk, and on the part of any other party under the hand of such party, or if such party be a corporation aggregate under the common seal of such corporation; and such appointment shall be delivered to the arbitrator, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing, in which shall be stated the matter so required to be referred to arbitration, shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final.

In questions of disputed compensation to be settled by arbitration, each party to appoint an arbitrator.

Appointment not to be revoked without consent.

On failure of one party, the other may appoint arbitrator to act on behalf of both.

26. If, before the matters so referred shall be determined, any arbitrator appointed by either party die, or die, &c.

If arbitrator

another
may be ap-
pointed.

On failure
to do so the
other may
proceed.

Arbitrators
to appoint
umpire.

If umpire
die &c.
another to
be appoint-
ed.

In the case
of railways
Board of
Trade may
appoint an
umpire on
neglect of
the arbitra-
tors.

If single
arbitrator
die, the
matter to
begin de
novo.

If either
arbitrator
refuse to
act, the
other to
proceed.

If arbitra-
tors fail to
make their
award with-
in 21 days,
umpire
to decide.

become incapable, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if, for the space of seven days after notice in writing from the other party for that purpose, he fail to do so, the remaining or other arbitrator may proceed *ex parte*; and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or disability as aforesaid.

27. Where more than one arbitrator shall have been appointed such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint, by writing under their hands, an umpire to decide on any such matters on which they shall differ, or which shall be referred to him under the provisions of this or the special act, and if such umpire shall die, or become incapable to act, they shall forthwith after such death or incapacity appoint another umpire in his place, and the decision of every such umpire on the matters so referred to him shall be final.

28. If in either of the cases aforesaid the said arbitra-
tors shall refuse, or shall, for seven days after request of either party to such arbitration, neglect to appoint an umpire, the Board of Trade, in any case in which a railway company shall be one party to the arbitration, and two justices in any other case, shall, on the application of either party to such arbitration, appoint an umpire, and the decision of such umpire on the matters on which the arbit-
rators shall differ, or which shall be referred to him under this or the special act, shall be final.

29. If, when a single arbitrator shall have been ap-
pointed, such arbitrator shall die or become incapable to act before he shall have made his award, the matters re-
ferred to him shall be determined by arbitration under the provisions of this or the special act in the same manner as if such arbitrator had not been appointed

30. If, where more than one arbitrator shall have been appointed, either of the arbitrators refuse or for seven days neglect to act, the other arbitrator may proceed *ex parte*, and the decision of such other arbitrator shall be as effec-
tual as if he had been the single arbitrator appointed by both parties.

31. If where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neg-
lect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as shall have been appointed for that purpose by both such arbitrators under

their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

32. The said arbitrators or their umpire may call for Arbitrators the production of any documents in the possession or may call for power of either party which they or he may think necessary for determining the question in dispute, and may and administer oaths. examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

33. Before any arbitrator or umpire shall enter into the Arbitrator consideration of any matters referred to him, he shall in or umpire to the presence of a justice make and subscribe the following make and declaration; that is to say, subscribe

“I, A.B. do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the act [naming the special act].”

“A. B.

“Made and subscribed in the presence of”

And such declaration shall be annexed to the award when Declaration made; and if any arbitrator or umpire having made such to be annexed to declaration shall wilfully act contrary thereto he shall be guilty of a misdemeanor. award.

34. All the costs of any such arbitration, and incident Costs of thereto, to be settled by the arbitrators, shall be borne by arbitration. the promoters of the undertaking, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters of the undertaking, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions.

35. The arbitrators shall deliver their award in writing Arbitrators to the promoters of the undertaking, and the said promoters shall retain the same, and shall forthwith, on their award demand, at their own expense, furnish a copy there- to promoters of to the other party to the arbitration, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party or any person appointed by him for that purpose.

36. The submission to any such arbitration may be Submission made a rule of any of the superior courts, on the application of either of the parties. to award.

37. No award made with respect to any question referred to arbitration under the provisions of this or the special act shall be set aside for irregularity or error in matter of form. Award not to be set aside.

38. Before the promoters of the undertaking shall issue Promoters their warrant for summoning a jury for settling any case before sum- of disputed compensation they shall give not less than ten moning a days' notice to the other party of their intention to cause jury to give

notice and
offer com-
pensation.

such jury to be summoned, and in such notice the promoters of the undertaking shall state what sum of money they are willing to give for the interest in such lands sought to be purchased by them from such party, and for the damage to be sustained by him by the execution of the works.

In ques-
tions of dis-
puted com-
pensation to
be settled
by a jury,
the promo-
ters to
issue their
warrant to
the sheriff
or coroner,
or ex-sheriff
or ex-coro-
ner not in-
terested in
the matter
in dispute.

39. In every case in which any such question of disputed compensation shall be required to be determined by the verdict of a jury the promoters of the undertaking shall issue their warrant to the sheriff, requiring him to summon a jury for that purpose, and such warrant shall be under the common seal of the promoters of the undertaking if they be a corporation, or if they be not a corporation under the hands and seals of such promoters or any two of them; and if such sheriff be interested in the matter in dispute such application shall be made to some coroner of the county in which the lands in question, or some part thereof, shall be situate, and if all the coroners of such county be so interested, such application may be made to some person having filled the office of sheriff or coroner in such county, and who shall be then living there, and who shall not be interested in the matter in dispute; and with respect to the persons last mentioned preference shall be given to one who shall have most recently served either of the said offices; and every ex-sheriff, coroner, or ex-coroner shall have power, if he think fit, to appoint a deputy or assessor.

Provisions
applicable
to sheriff
to apply to
coroner.

40. Throughout the enactments contained in this act relating to the reference to a jury, where the term "sheriff" is used, the provisions applicable thereto shall be held to apply to every coroner or other person lawfully acting in his place; and in every case in which any such warrant shall have been directed to any other person than the sheriff, such sheriff shall, immediately on receiving notice of the delivery of the warrant, deliver over, on application for that purpose, to the person to whom the same shall have been directed, or to any person appointed by him to receive the same, the jurors' book and special jurors' list belonging to the county where the lands in question shall be situate.

Delivery of
jury lists.

Upon re-
ceipt of
warrant
sheriff to
summon
jury,
and give
notice to
promoters

41. Upon the receipt of such warrant the sheriff shall summon a jury of twenty-four indifferent persons, duly qualified to act as common jurymen in the superior courts, to meet at a convenient time and place to be appointed by him for that purpose, such time not being less than fourteen nor more than twenty-one days after the receipt of such warrant, and such place not being more than eight miles distant from the lands in question, unless by consent of the parties interested, and he shall forthwith give notice

to the promoters of the works of the time and place so of time and appointed by him. p lace ap-

42. Out of the jurors appearing upon such summons a pointed. jury of twelve persons shall be drawn by the sheriff, in Jury to be such manner as juries for trials of issues joined in the drawn by superior courts are by law required to be drawn, and if a sheriff out sufficient number of jurymen do not appear in obedience of jurors appearing to such summons the sheriff shall return other indifferent upon sum- men, duly qualified as aforesaid, of the bystanders, or mons. or others that can speedily be procured, to make up the jury to the number aforesaid; and all parties concerned may have their lawful challenges against any of the jurymen, but no such party shall challenge the array.

43. The sheriff shall preside on the said inquiry, and Sheriff to the party claiming compensation shall be deemed the plain- preside at tiff, and shall have all such rights and privileges as the inquiry, plaintiff is entitled to in the trial of actions at law; and if either party so request in writing, the sheriff shall summon and on re- before him any person considered necessary to be ex- quest to amined as a witness touching the matters in question, and summon on the like request the sheriff shall order the jury, or any witnesses witnesses six or more of them, to view the place or matter in con- &c. troversy, in like manner as views may be had in the trial of actions in the superior courts.

44. If the sheriff make default in any of the matters If sheriff hereinbefore required to be done by him in relation to any make de- such trial or inquiry, he shall forfeit fifty pounds for every fault to for- such offence, and such penalty shall be recoverable by the feit 50*l*. promoters of the undertaking by action in any of the su- perior courts; and if any person summoned and re- Jurors not turned upon any jury under this or the special act, appearing, whether common or special, do not appear, or if appearing, or neglect- he refuse to make oath, or in any other manner unlawfully ing their neglect his duty, he shall, unless he show reasonable ex- duty, liable cuse to the satisfaction of the sheriff, forfeit a sum not to forfeit exceeding ten pounds, and every such penalty payable by 10*l*. a sheriff or jurymen shall be applied in satisfaction of the costs of the inquiry, so far as the same will extend; and, in addition to the penalty hereby imposed, every such jury- man shall be subject to the same regulations, pains, and penalties as if such jury had been returned for the trial of an issue joined in any of the superior courts.

45. If any person duly summoned to give evidence Witnesses upon any such inquiry, and to whom a tender of his not appear- reasonable expenses shall have been made, fail to appear ing or re- at the time and place specified in the summons without fusing to sufficient cause, or if any person, whether summoned or be exa- not, who shall appear as a witness refuse to be examined mined, on oath touching the subject matter in question, every liable to forfeit 10*l*.

person so offending shall forfeit to the party aggrieved a sum not exceeding ten pounds.

Promoters
to give no
tice.

46. Not less than ten days' notice of the time and place of the inquiry shall be given in writing by the promoters of the undertaking to the other party.

If party
claiming
make
default, in-
quiry not to
proceed.

47. If the party claiming compensation shall not appear at the time appointed for the inquiry such inquiry shall not be further proceeded in, but the compensation to be paid shall be such as shall be ascertained by a surveyor appointed by two justices in manner hereinafter provided.

Jury to be
sworn by
the sheriff.

48. Before the jury proceed to inquire of and assess the compensation or damage in respect of which their verdict is to be given they shall make oath that they will truly and faithfully inquire of and assess such compensation or damage, and the sheriff shall administer such oaths, as well as the oaths of all persons called upon to give evidence.

Jury to as-
sess sepa-
rately the
sums to be
paid for
purchase of
lands and
for damage
to other
lands.

49. Where such inquiry shall relate to the value of lands to be purchased, and also to compensation claimed for injury done or to be done to the lands held therewith, the jury shall deliver their verdict separately for the sum of money to be paid for the purchase of the lands required for the works, or of any interest therein belonging to the party with whom the question of disputed compensation shall have arisen, or which, under the provisions herein contained, he is enabled to sell or convey, and for the sum of money to be paid by way of compensation for the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such lands by the exercise of the powers of this or the special act, or any act incorporated therewith.

Verdict and
judgment to
be signed
by the
sheriff and
kept by the
clerk of the
peace.

50. The sheriff before whom such inquiry shall be held shall give judgment for the purchase money or compensation assessed by such jury, and the verdict and judgment shall be signed by the sheriff, and being so signed shall be kept by the clerk of the peace among the records of the general or quarter sessions of the county in which the lands or any part thereof shall be situate in respect of which such purchase money or compensation shall have been awarded; and such verdicts and judgments shall be deemed records, and the same or true copies thereof shall be good evidence in all courts and elsewhere, and all persons may inspect the said verdicts and judgments, and may have copies thereof or extracts therefrom, on paying for each inspection thereof one shilling, and for every one hundred words copied or extracted therefrom sixpence, which copies or extracts the clerk of the peace is hereby required to make out, and to sign and certify the same to be true copies

Copies to
be evidence.

Inspection
and fee.

51. On every such inquiry before a jury, where the verdict of the jury shall be given for a greater sum than the sum previously offered by the promoters of the undertaking, all the costs of such inquiry shall be borne by the promoters of the undertaking; but if the verdict of the jury be given for the same or a less sum than the sum previously offered by the promoters of the undertaking, or if the owner of the lands shall have failed to appear at the time and place appointed for the inquiry, having received due notice thereof, one-half of the costs of summoning, impannelling, and returning the jury, and of taking the inquiry and recording the verdict and judgment thereon, in case such verdict shall be taken, shall be defrayed by the owner of the lands, and the other half by the promoters of the undertaking, and each party shall bear his own costs, other than as aforesaid, incident to such inquiry.

52. The costs of any such inquiry shall, in case of difference, be settled by one of the masters of the court of Queen's Bench of England or Ireland, according as the lands are situate, on the application of either party, and such costs shall include all reasonable costs, charges, and expenses incurred in summoning, impannelling, and returning the jury, taking the inquiry, the attendance of witnesses, the employment of counsel and attornies, recording the verdict and judgment thereon, and otherwise incident to such inquiry.

53. If any such costs shall be payable by the promoters of the undertaking, and if within seven days after demand such costs be not paid to the party entitled to receive the same, they shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly; and if any such costs shall be payable by the owner of the lands or of any interest therein, the same may be deducted and retained by the promoters of the undertaking, out of any money awarded by the jury to such owner, or determined by the valuation of a surveyor under the provision hereinafter contained; and the payment or deposit of the remainder, if any, of such money shall be deemed payment and satisfaction of the whole thereof, or if such costs shall exceed the amount of the money so awarded or determined, the excess shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly.

54. If either party desire any such question of disputed compensation as aforesaid to be tried before a special jury, such question shall be so tried, provided that notice of such desire, if coming from the other party, be given to the promoters of the undertaking before they have issued

Costs of the inquiry to be borne by the promoters where verdict given for a greater sum than previously offered, in other cases to be defrayed equally by both parties.

Costs of inquiry in case of difference to be settled by one of the masters of the Queen's Bench.

Costs payable by promoters may be recovered by distress; payable by owners of lands may be deducted from compensation.

Either party may require that questions of compensation

tion be tried by special jury.

Sheriff on receipt of warrant to nominate special jury.

their warrant to the sheriff; and for that purpose the promoters of the undertaking shall by their warrant to the sheriff require him to nominate a special jury for such trial; and thereupon the sheriff shall, as soon as conveniently may be after the receipt by him of such warrant, summon both the parties to appear before him, by themselves or their attornies, at some convenient time and place appointed by him for the purpose of nominating a special jury (not being less than five nor more than eight days from the service of such summons); and at the place and time so appointed the sheriff shall proceed to nominate and strike a special jury, in the manner in which such juries shall be required by the laws for the time being in force to be nominated or struck by the proper officers of the superior courts, and the sheriff shall appoint a day, not later than the eighth day after striking of such jury, for the parties or their agents to appear before him to reduce the number of such jury, and thereof shall give four days' notice to the parties; and on the day so appointed the sheriff shall proceed to reduce the said special jury to the number of twenty, in the manner used and accustomed by the proper officers of the superior courts.

Deficiency of special jurymen may be supplied by other persons qualified as special or common jurymen.

55. The special jury on such inquiry shall consist of twelve of the said twenty who shall first appear on the names being called over, the parties having their lawful challenges against any of the said jurymen; and if a full jury do not appear, or if after such challenges a full jury do not remain, then, upon the application of either party, the sheriff shall add to the list of such jury the names of any other disinterested persons qualified to act as special or common jurymen, who shall not have been previously struck off the aforesaid list, and who may then be attending the court, or can speedily be procured, so as to complete such jury, all parties having their lawful challenges against such persons; and the sheriff shall proceed to the trial and adjudication of the matters in question by such jury, and such trial shall be attended in all respects with the like incidents and consequences, and the like penalties shall be applicable, as hereinbefore provided in the case of a trial by common jury.

Trial to be in the same manner as by common jury.

Other inquiries may be tried by such jury.

56. Any other inquiry than that for the trial of which such special jury may have been struck and reduced as aforesaid may be tried by such jury, provided the parties thereto respectively shall give their consent to such trial.

Attendance of jurymen.

57. No jurymen shall, without his consent, be summoned or required to attend any such proceeding as aforesaid more than once in any year.

Compensation to ab-

58. The purchase-money or compensation to be paid for any lands to be purchased or taken by the promoters of

the undertaking from any party who, by reason of absence from the kingdom, is prevented from treating, or who cannot after diligent inquiry be found, or who shall not appear at the time appointed for the inquiry before the jury as hereinbefore provided for, after due notice thereof, and the compensation to be paid for any permanent injury to such lands, shall be such as shall be determined by the valuation of such able practical surveyor as two justices shall nominate for that purpose as hereinafter mentioned.

59. Upon application by the promoters of the undertaking to two justices, and upon such proof as shall be satisfactory to them that any such party is, by reason of absence from the kingdom, prevented from treating, or cannot after diligent inquiry be found, or that any such party failed to appear on such inquiry before a jury as aforesaid, after due notice to him for that purpose, such justices shall, by writing under their hands, nominate an able practical surveyor for determining such compensation as aforesaid, and such surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof.

60. Before such surveyor shall enter upon the duty of making such valuation as aforesaid he shall, in the presence of such justices, or one of them, make and subscribe the declaration following at the foot of such nomination; (that is to say,)

“I *A. B.* do solemnly and sincerely declare, that I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me.

“ *A. B.*

“Made and subscribed in the presence of”

And if any surveyor shall corruptly make such declaration, or having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanor.

61. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved together therewith by the promoters of the undertaking, and they shall at all times produce the said valuation and other documents, on demand, to the owner of the lands comprised in such valuation, and to all other parties interested therein.

62. All the expenses of and incident to every such valuation shall be borne by the promoters of the undertaking.

63. In estimating the purchase money or compensation to be paid by the promoters of the undertaking, in any of the cases aforesaid, regard shall be had by the justices, arbitrators, or surveyors, as the case may be, not only to

compensation regard to be had to damage by severance of lands.

the value of the land to be purchased or taken by the promoters of the undertaking, but also to the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such other lands by the exercise of the powers of this or the special act, or any act incorporated therewith.

When compensation to absent party has been determined by a surveyor, the party may have the same submitted to arbitration.

64. When the compensation payable in respect of any lands, or any interest therein, shall have been ascertained by the valuation of a surveyor, and deposited in the bank under the provisions herein contained, by reason that the owner of or party entitled to convey such lands or such interest therein as aforesaid could not be found or was absent from the kingdom, if such owner or party shall be dissatisfied with such valuation it shall be lawful for him, before he shall have applied to the Court of Chancery for payment or investment of the monies so deposited under the provisions herein contained, by notice in writing to the promoters of the undertaking, to require the question of such compensation to be submitted to arbitration, and thereupon the same shall be so submitted accordingly, in the same manner as in other cases of disputed compensation hereinbefore authorized or required to be submitted to arbitration.

Question to be submitted to the arbitrators.

65. The question to be submitted to the arbitrators in the case last aforesaid shall be, whether the said sum so deposited as aforesaid by the promoters of the undertaking was a sufficient sum, or whether any and what further sum ought to be paid or deposited by them.

If further sum awarded, promoters to pay or deposit same within 14 days.

66. If the arbitrators shall award that a further sum ought to be paid or deposited by the promoters of the undertaking, they shall pay or deposit, as the case may require, such further sum within fourteen days after the making of such award, or in default thereof the same may be enforced by attachment, or recovered with costs by action or suit in any of the superior courts.

Costs of the arbitration.

67. If the arbitrators shall determine that the sum so deposited was sufficient, the costs of and incident to such arbitration, to be determined by the arbitrators, shall be in the discretion of the arbitrators, but if the arbitrators shall determine that a further sum ought to be paid or deposited by the promoters of the undertaking, all the costs of and incident to the arbitration shall be borne by the promoters of the undertaking.

Compensation in respect of lands injuriously

68. If any party shall be entitled to any compensation in respect of any lands, or of any interest therein, which shall have been taken for or injuriously affected by the execution of the works, and for which the promoters of the undertaking shall not have made satisfaction under the

provisions of this or the special act, or any act incorporated therewith, and if the compensation claimed in such case shall exceed the sum of fifty pounds, such party may have the same settled either by arbitration or by the verdict of a jury, as he shall think fit: and if such party desire to have the same settled by arbitration, it shall be lawful for him to give notice in writing to the promoters of the undertaking of such his desire, stating in such notice the nature of the interest in such lands in respect of which he claims compensation, and the amount of the compensation so claimed therein; and unless the promoters of the undertaking be willing to pay the amount of compensation so claimed, and shall enter into a written agreement for that purpose within twenty-one days after the receipt of any such notice from any party so entitled, the same shall be settled by arbitration in the manner herein provided; or if the party so entitled as aforesaid desire to have such question of compensation settled by jury, it shall be lawful for him to give notice in writing of such his desire to the promoters of the undertaking, stating such particulars as aforesaid, and unless the promoters of the undertaking be willing to pay the amount of compensation so claimed, and enter into a written agreement for that purpose, they shall, within twenty-one days after the receipt of such notice, issue their warrant to the sheriff to summon a jury for settling the same in the manner herein provided, and in default thereof they shall be liable to pay to the party so entitled as aforesaid the amount of compensation so claimed, and the same may be recovered by him, with costs, by action in any of the superior courts.

affected by
works may
be settled
either by
arbitration
or by jury.

Promoters
on receiv-
ing notice
to pay
amount
claimed, or
refer to
arbitration,

or issue
warrant to
sheriff to
summon a
jury.

And with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title, be it enacted as follows:

*Applica-
tion of
compensa-
tion.*

69. If the purchase money or compensation which shall be payable in respect of any lands, or any interest therein, purchased or taken by the promoters of the undertaking from any corporation, tenant for life or in tail, married woman seised in her own right or entitled to dower, guardian, committee of lunatic or idiot, trustee, executor or administrator, or person having a partial or qualified interest only in such lands, and not entitled to sell or convey the same except under the provisions of this or the special act, or the compensation to be paid for any permanent damage to any such lands, amount to or exceed the sum of two hundred pounds, the same shall be paid into the bank, in the name and with the privity of the Accountant-General of the Court of Chancery in England if the same relate to lands in England or Wales, or the

Purchase
money pay-
able to par-
ties under
disability
amounting
to 200*l.* to
be deposited
in the
bank in the
name of the
accountant-
general.

*Applica-
tion of
compensa-
tion.*

—
and remain
until ap-
plied to the
following
purposes.

Purchase or
redemption
of land tax,
or dis-
charge of
debt.

Purchase of
other lands.

Removing
or replacing
buildings.

Payment in
money.

Money may
be so ap-
plied by
order of
court upon
petition of
party enti-
tled.

Interest to
be paid to
party enti-
tled to pro-
fits.

Sums from
20*l.* to 200*l.*
to be depo-
sited in the
bank, or
paid to
trustees.

Accountant-General of the Court of Exchequer in Ireland if the same relate to lands in Ireland, to be placed to the account there of such accountant-general, ex-parte the promoters of the undertaking (describing them by their proper name), in the matter of the special act (citing it), pursuant to the method prescribed by any act for the time being in force for regulating monies paid into the said courts; and such monies shall remain so deposited until the same be applied to some one or more of the following purposes; (that is to say,)

In the purchase or redemption of the land tax, or the discharge of any debt or incumbrance affecting the land in respect of which such money shall have been paid, or affecting other lands settled therewith to the same or the like uses, trusts, or purposes; or

In the purchase of other lands to be conveyed, limited, and settled upon the like uses, trusts, and purposes, and in the same manner as the lands in respect of which such money shall have been paid stood settled; or

If such money shall be paid in respect of any buildings taken under the authority of this or the special act, or injured by the proximity of the works, in removing or replacing such buildings, or substituting others in their stead, in such manner as the Court of Chancery shall direct; or

In payment to any party becoming absolutely entitled to such money.

70. Such money may be so applied as aforesaid upon an order of the Court of Chancery in England or the Court of Exchequer in Ireland, made on the petition of the party who would have been entitled to the rents and profits of the lands in respect of which such money shall have been deposited; and until the money can be so applied it may, upon the like order, be invested by the said accountant-general in the purchase of three per centum consolidated or three per centum reduced bank annuities, or in government or real securities, and the interest, dividends, and annual proceeds thereof paid to the party who would for the time being have been entitled to the rents and profits of the lands.

71. If such purchase money or compensation shall not amount to the sum of two hundred pounds, and shall exceed the sum of twenty pounds, the same shall either be paid into the bank, and applied in the manner hereinbefore directed with respect to sums amounting to or exceeding two hundred pounds, or the same may lawfully be paid to two trustees, to be nominated by the parties entitled to the rents or profits of the lands in respect

whereof the same shall be payable, such nomination to be signified by writing under the hands of the party so entitled; and in case of the coverture, infancy, lunacy, or other incapacity of the parties entitled to such monies, such nomination may lawfully be made by their respective husbands, guardians, committees, or trustees; but such last-mentioned application of the monies shall not be made unless the promoters of the undertaking approve thereof and of the trustees named for the purpose; and the money so paid to such trustees, and the produce arising therefrom, shall be by such trustees applied in the manner hereinbefore directed with respect to money paid into the bank, but it shall not be necessary to obtain any order of the court for that purpose.

*Applica-
tion of
compensa-
tion.*

Money so paid to be applied as before directed.

72. If such money shall not exceed the sum of twenty pounds, the same shall be paid to the parties entitled to the rents and profits of the lands in respect whereof the same shall be payable, for their own use and benefit, or in case of the coverture, infancy, idiotcy, lunacy, or other incapacity of any such parties, then such money shall be paid, for their use, to the respective husbands, guardians, committees, or trustees of such persons.

Sums not exceeding 20*l.* to be paid to parties.

73. All sums of money exceeding twenty pounds, which may be payable by the promoters of the undertaking in respect of the taking, using, or interfering with any lands under a contract or agreement with any person who shall not be entitled to dispose of such lands, or of the interest therein contracted to be sold by him, absolutely for his own benefit, shall be paid into the bank or to trustees in manner aforesaid; and it shall not be lawful for any contracting party not entitled as aforesaid to retain to his own use any portion of the sums so agreed or contracted to be paid for or in respect of the taking, using, or interfering with any such lands, or in lieu of bridges, tunnels, or other accommodation works, or for assenting to or not opposing the passing of the bill authorising the taking of such lands, but all such monies shall be deemed to have been contracted to be paid for and on account of the several parties interested in such lands, as well in possession as in remainder, reversion, or expectancy: provided always, that it shall be in the discretion of the Court of Chancery in England or the Court of Exchequer in Ireland, or the said trustees, as the case may be, to allot to any tenant for life, or for any other partial or qualified estate, for his own use, a portion of the sum so paid into the bank, or to such trustees as aforesaid, as compensation for any injury, inconvenience, or annoyance which he may be considered to sustain, independently of the actual value of the lands to be taken, and of the damage occasioned to the

All sums exceeding 20*l.* payable under contract with persons not absolutely entitled, to be paid into bank

Court may allot to tenants for life &c. compensation for injury sustained independently of value of lands.

lands held therewith, by reason of the taking of such lands and the making of the works.

Where compensation paid for leases or reversions, court may direct application of money as they may think just.

74. Where any purchase money or compensation paid into the bank under the provisions of this or the special act shall have been paid in respect of any lease for a life or lives or years, or for a life or lives and years, or any estate in lands less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, it shall be lawful for the Court of Chancery in England or the Court of Exchequer in Ireland, on the petition of any party interested in such money, to order that the same shall be laid out, invested, accumulated, and paid in such manner as the said court may consider will give to the parties interested in such money the same benefit therefrom as they might lawfully have had from the lease, estate, or reversion in respect of which such money shall have been paid, or as near thereto as may be.

Upon deposit being made, the owners of the lands to convey, or in default the lands to vest in the promoters of the undertaking upon a deed poll being executed.

75. Upon deposit in the bank in manner hereinbefore provided of the purchase money or compensation agreed or awarded to be paid in respect of any lands purchased or taken by the promoters of the undertaking under the provisions of this or the special act, or any act incorporated therewith, the owner of such lands, including in such term all parties by this act enabled to sell or convey lands, shall, when required so to do by the promoters of the undertaking, duly convey such lands to the promoters of the undertaking, or as they shall direct; and in default thereof, or if he fail to adduce a good title to such lands to their satisfaction, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll under their common seal if they be a corporation, or if they be not a corporation under the hands and seals of the promoters, or any two of them, containing a description of the lands in respect of which such default shall be made, and reciting the purchase or taking thereof by the promoters of the undertaking, and the names of the parties from whom the same were purchased or taken, and the deposit made in respect thereof, and declaring the fact of such default having been made, and such deed poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein; and thereupon all the estate and interest in such lands of or capable of being sold and conveyed by the party between whom and the promoters of the undertaking such agreement shall have been come to, or as between whom and the promoters of the undertaking such purchase money or compensation shall have been determined by a jury, or by arbitrators, or by a surveyor appointed by two justices as herein provided,

and shall have been deposited as aforesaid, shall vest absolutely in the promoters of the undertaking, and as against such parties, and all parties on behalf of whom they are hereinbefore enabled to sell and convey, the promoters of the undertaking shall be entitled to immediate possession of such lands.

*Applica-
tion of
compensa-
tion.*

76. If the owner of any such lands purchased or taken by the promoters of the undertaking, or of any interest therein, on tender of the purchase money or compensation either agreed or awarded to be paid in respect thereof, refuse to accept the same, or neglect or fail to make out a title to such lands, or to the interest therein claimed by him, to the satisfaction of the promoters of the undertaking, or if he refuse to convey or release such lands as directed by the promoters of the undertaking, or if any such owner be absent from the kingdom, or cannot after diligent inquiry be found, or fail to appear on the inquiry before a jury, as herein provided for, it shall be lawful for the promoters of the undertaking to deposit the purchase money or compensation payable in respect of such lands, or any interest therein, in the bank, in the name and with the privity of the accountant-general of the Court of Chancery in England or the Court of Exchequer in Ireland, to be placed, except in the cases herein otherwise provided for, to his account there, to the credit of the parties interested in such lands (describing them so far as the promoters of the undertaking can do), subject to the control and disposition of the said court.

Where parties refuse to convey, or do not show title, or cannot be found, the purchase money to be deposited in the bank.

77. Upon any such deposit of money as last aforesaid being made the cashier of the bank shall give to the promoters of the undertaking, or to the party paying in such money by their direction, a receipt for such money, specifying therein for what and for whose use (described as aforesaid) the same shall have been received, and in respect of what purchase the same shall have been paid in; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll under their common seal if they be a corporation, or if they be not a corporation under the hands and seals of the said promoters, or any two of them, containing a description of the lands in respect whereof such deposit shall have been made, and declaring the circumstances under which and the names of the parties to whose credit such deposit shall have been made, and such deed poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein; and thereupon all the estate and interest in such lands of the parties for whose use and in respect whereof such purchase money or compensation shall have been

Upon deposit being made in the bank a receipt to be given, and the lands to vest in the promoters upon a deed poll being executed.

deposited shall vest absolutely in the promoters of the undertaking, and as against such parties they shall be entitled to immediate possession of such lands.

Upon application of party making claim to monies so deposited, the court may order such money to be invested or distributed.

78. Upon the application by petition of any party making claim to the money so deposited as last aforesaid, or any part thereof, or to the lands in respect whereof the same shall have been so deposited, or any part of such lands, or any interest in the same, the said Court of Chancery in England or the Court of Exchequer in Ireland may, in a summary way, as to such court shall seem fit, order such money to be laid out or invested in the public funds, or may order distribution thereof, or payment of the dividends thereof, according to the respective estates, titles, or interests of the parties making claim to such money or lands, or any part thereof, and may make such other order in the premises as to such court shall seem fit.

Parties in possession of lands to be deemed the owners until the contrary be shown to the satisfaction of the court.

79. If any question arise respecting the title to the lands in respect whereof such monies shall have been so paid or deposited as aforesaid, the parties respectively in possession of such lands, as being the owners thereof, or in receipt of the rents of such lands, as being entitled thereto at the time of such lands being purchased or taken, shall be deemed to have been lawfully entitled to such lands, until the contrary be shown to the satisfaction of the court; and unless the contrary be shown as aforesaid, the parties so in possession, and all parties claiming under them, or consistently with their possession, shall be deemed entitled to the money so deposited, and to the dividends or interest of the annuities or securities purchased therewith, and the same shall be paid and applied accordingly.

In all cases of money deposited in the bank, (except by reason of wilful refusal or neglect) the court may order the costs to be paid by the promoters.

80. In all cases of monies deposited in the bank under the provisions of this or the special act, or an act incorporated therewith, except where such monies shall have been so deposited by reason of the wilful refusal of any party entitled thereto to receive the same, or to convey or release the lands in respect whereof the same shall be payable, or by reason of the wilful neglect of any party to make out a good title to the land required, it shall be lawful for the Court of Chancery in England or the Court of Exchequer in Ireland to order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the promoters of the undertaking; (that is to say,) the costs of the purchase or taking of the lands, or which shall have been incurred in consequence thereof, other than such costs as are herein otherwise provided for, and the costs of the investment of such monies in government or real securities, and of the reinvestment thereof in the purchase of other lands, and also the costs of obtaining the proper

orders for any of the purposes aforesaid, and of the orders for the payment of the dividends and interest of the securities upon which such monies shall be invested, and for the payment out of court of the principal of such monies, or of the securities whereon the same shall be invested, and of all proceedings relating thereto, except such as are occasioned by litigation between adverse claimants: provided always, that the costs of one application only for reinvestment in land shall be allowed, unless it shall appear to the Court of Chancery in England or the Court of Exchequer in Ireland that it is for the benefit of the parties interested in the said monies that the same should be invested in the purchase of lands, in different sums and at different times, in which case it shall be lawful for the court, if it think fit, to order the costs of any such investments to be paid by the promoters of the undertaking.

*Applica-
tion of
compensa-
tion.*

Costs of one application only for reinvestment in land to be allowed unless court otherwise orders.

And with respect to the conveyances of lands, be it enacted as follows :

*Convey-
ances of
lands.*

81. Conveyances of lands to be purchased under the provisions of this or the special act, or any act incorporated therewith, may be according to the forms in the schedules (A.) and (B.) respectively to this act annexed, or as near thereto as the circumstances of the case will admit, or by deed in any other form which the promoters of the undertaking may think fit; and all conveyances made according to the forms in the said schedules or as near thereto as the circumstances of the case will admit shall be effectual to vest the lands thereby conveyed in the promoters of the undertaking, and shall operate to merge all terms of years attendant by express declaration, or by construction of law, on the estate or interest so thereby conveyed, and to bar and to destroy all such estates tail, and all other estates, rights, titles, remainders, reversions, limitations, trusts, and interests whatsoever, of and in the lands comprised in such conveyances which shall have been purchased or compensated for by the consideration therein mentioned; but although terms of years be thereby merged, they shall in equity afford the same protection as if they had been kept on foot, and assigned to a trustee for the promoters of the undertaking to attend the reversion and inheritance.

Conveyances may be according to forms in schedule or by deed.

To vest lands thereby conveyed in promoters, and merge all terms of years.

82. The costs of all such conveyances shall be borne by the promoters of the undertaking, and such costs shall include all charges and expenses incurred, on the part as well of the seller as of the purchaser, of all conveyances and assurances of any such lands, and of any outstanding terms or interests therein, and of deducing, evidencing, and verifying the title to such lands, terms, or interests,

Costs of conveyances to be borne by promoters, to include expenses of

verifying
title and
furnishing
abstracts.

and of making out and furnishing such abstracts and attested copies as the promoters of the undertaking may require, and all other reasonable expenses incident to the investigation, deduction, and verification of such title.

Costs of
convey-
ances may
be taxed by
one of the
taxing
masters of
the Court of
Chancery.

83. If the promoters of the undertaking and the party entitled to any such costs shall not agree as to the amount thereof, such costs shall be taxed by one of the taxing masters of the Court of Chancery, or by a master in Chancery in Ireland, upon an order of the same court to be obtained upon petition in a summary way by either of the parties; and the promoters of the undertaking shall pay what the said master shall certify to be due in respect of such costs to the party entitled thereto, or in default thereof the same may be recovered in the same way as any other costs payable under an order of the said court, or the same may be recovered by distress in the manner hereinbefore provided in other cases of costs; and the expense of taxing such costs shall be borne by the promoters of the undertaking, unless upon such taxation one-sixth part of the amount of such costs shall be disallowed, in which case the costs of such taxation shall be borne by the party whose costs shall be so taxed, and the amount thereof shall be ascertained by the said master and deducted by him accordingly in his certificate of such taxation.

Expenses
of taxing
costs to be
borne by
promoters
unless one
sixth part be
disallowed.

*Entry on
lands.*

And with respect to the entry upon lands by the promoters of the undertaking, be it enacted as follows:

Promoters
not to enter
upon lands
until pur-
chase
money be
paid or de-
posited,

84. The promoters of the undertaking shall not, except by consent of the owners and occupiers, enter upon any lands which shall be required to be purchased or permanently used for the purposes and under the powers of this or the special act, until they shall either have paid to every party having any interest in such lands, or deposited in the bank, in the manner herein mentioned, the purchase money or compensation agreed or awarded to be paid to such parties respectively for their respective interests therein: provided always, that for the purpose merely of surveying and taking levels of such lands, and of probing or boring to ascertain the nature of the soil, and of setting out the line of the works, it shall be lawful for the promoters of the undertaking, after giving not less than three nor more than fourteen days' notice to the owners or occupiers thereof, to enter upon such lands without previous consent, making compensation for any damage thereby occasioned to the owners or occupiers thereof.

unless for
surveying,
taking
levels, or
setting out
the line.

If promo-
ters be de-
sirous of
entering

85. Provided also, that if the promoters of the undertaking shall be desirous of entering upon and using any such lands before an agreement shall have been come to or an award made, or verdict given for the purchase

money or compensation to be paid by them in respect of such lands, it shall be lawful for the promoters of the undertaking to deposit in the bank by way of security, as hereinafter mentioned, either the amount of purchase money or compensation claimed by any party interested in or entitled to sell and convey such lands, and who shall not consent to such entry, or such a sum as shall, by a surveyor appointed by two justices in the manner hereinbefore provided in the case of parties who cannot be found, be determined to be the value of such lands, or of the interest therein which such party is entitled to or enabled to sell and convey, and also to give to such party a bond, under the common seal of the promoters if they be a corporation, or if they be not a corporation under the hands and seals of the said promoters, or any two of them, with two sufficient sureties to be approved of by two justices in case the parties differ, in a penal sum equal to the sum so to be deposited, conditioned for payment to such party, or for deposit in the bank for the benefit of the parties interested in such lands as the case may require, under the provisions herein contained, of all such purchase money or compensation, as may in manner hereinbefore provided be determined to be payable by the promoters of the undertaking in respect of the lands so entered upon, together with interest thereon, at the rate of five pounds per centum per annum, from the time of entering on such lands, until such purchase money or compensation shall be paid to such party, or deposited in the bank for the benefit of the parties interested in such lands, under the provisions herein contained; and upon such deposit by way of security being made as aforesaid, and such bond being delivered or tendered to such non-consenting party as aforesaid, it shall be lawful for the promoters of the undertaking to enter upon and use such lands, without having first paid or deposited the purchase money or compensation in other cases required to be paid or deposited by them before entering upon any lands to be taken by them under the provisions of this or the special act.

86. The money so to be deposited as last aforesaid shall be paid into the bank in the name and with the privity of the accountant-general of the Court of Chancery in England or the Court of Exchequer in Ireland, to be placed to his account there to the credit of the parties interested in or entitled to sell and convey the lands so to be entered upon, and who shall not have consented to such entry, subject to the control and disposition of the said court; and upon such deposit being made, the cashier of the bank shall give to the promoters of the undertaking, or to the party paying in such money by their direction,

upon lands before agreement come to for purchase, they may deposit in bank amount claimed, or such sum as surveyor determines to be the value, and also give bond to parties interested.

Upon making deposit and giving bond promoters may enter upon lands.

Money to be deposited in bank in name of accountant-general.

Cashier of bank to give a receipt.

*Entry on
lands.*

—
Money deposited to remain as a security to parties whose lands have been entered upon, and to be applied under the direction of the court.

The company may pay the deposit money into the bank by way of security during the time that the office of the accountant-general is closed.

If promoters enter upon lands

a receipt for such money, specifying therein for what purpose and to whose credit the same shall have been paid in.

87. The money so deposited as last aforesaid shall remain in the bank, by way of security to the parties whose lands shall so have been entered upon for the performance of the condition of the bond to be given by the promoters of the undertaking, as hereinbefore mentioned, and the same may, on the application by petition of the promoters of the undertaking, be ordered to be invested in bank annuities or government securities, and accumulated; and upon the condition of such bond being fully performed it shall be lawful for the Court of Chancery in England or the Court of Exchequer in Ireland, upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or transferred to the promoters of the undertaking, or if such condition shall not be fully performed, it shall be lawful for the said court to order the same to be applied in such manner as it shall think fit for the benefit of the parties for whose security the same shall so have been deposited.

88. If at any time the company be unable, by reason of the closing of the office of the accountant-general of the Court of Chancery in England or the court of Exchequer in Ireland, to obtain his authority in respect of the payment of any sum of money so authorized to be deposited in the bank by way of security as aforesaid, it shall be lawful for the company to pay into the bank to the credit of such party or matter as the case may require (subject nevertheless to being dealt with as hereinafter provided, and not otherwise), such sum of money as the promoters of the undertaking shall, by some writing signed by their secretary or solicitors for the time being, addressed to the governor and company of the bank in that behalf, request, and upon any such payment being made the cashier of the bank shall give a certificate thereof; and in every such case, within ten days after the re-opening of the said accountant-general's office, the solicitor for the promoters of the undertaking shall there bespeak the direction for the payment of such sum into the name of the accountant-general, and upon production of such direction at the bank of England the money so previously paid in shall be placed to the credit of the said accountant-general accordingly, and the receipt for the said payment be given to the party making the same in the usual way for the purpose of being filed at the report office.

89. If the promoters of the undertaking or any of their contractors shall, except as aforesaid, wilfully enter upon and take possession of any lands which shall be required

to be purchased or permanently used for the purposes of without the special act, without such consent as aforesaid, or without having made such payment for the benefit of the parties interested in the lands, or such deposit by way of security as aforesaid, the promoters of the undertaking shall forfeit to the party in possession of such lands the sum of ten pounds, over and above the amount of any damage done to such lands by reason of such entry and taking possession as aforesaid, such penalty and damage respectively to be recovered before two justices; and if the promoters of the undertaking or their contractors shall, after conviction in such penalty as aforesaid, continue in unlawful possession of any such lands, the promoters of the undertaking shall be liable to forfeit the sum of twenty-five pounds for every day they or their contractors shall so remain in possession as aforesaid, such penalty to be recoverable by the party in possession of such lands, with costs, by action in any of the superior courts: provided always, that nothing herein contained shall be held to subject the promoters of the undertaking to the payment of any such penalties as aforesaid, if they shall bona fide and without collusion have paid the compensation agreed or awarded to be paid in respect of the said lands to any person whom the promoters of the undertaking may have reasonably believed to be entitled thereto, or shall have deposited the same in the bank for the benefit of the parties interested in the lands, or made such deposit by way of security in respect thereof as hereinbefore mentioned, although such person may not have been legally entitled thereto.

90. On the trial of any action for any such penalty as aforesaid the decision of the justices under the provision hereinbefore contained shall not be held conclusive as to the right of entry on any such lands by the promoters of the undertaking.

91. If in any case in which, according to the provisions of this or the special act, or any act incorporated therewith, the promoters of the undertaking are authorized to enter upon and take possession of any lands required for the purposes of the undertaking, the owner or occupier of any such lands or any other person refuse to give up the possession thereof, or hinder the promoters of the undertaking from entering upon or taking possession of the same, it shall be lawful for the promoters of the undertaking to issue their warrant to the sheriff to deliver possession of the same to the person appointed in such warrant to receive the same, and upon the receipt of such warrant the sheriff shall deliver possession of any such lands accordingly, and the costs accruing by reason of the issuing

consent before payment or deposit of purchase money to forfeit 10*l.* above damage

If promoters after conviction continue in possession to forfeit 25*l.* per day.

Promoters not liable if compensation paid to parties believed to be entitled thereto.

On trial decision of justices not to be held conclusive.

In case of refusal to deliver possession of lands, promoters may issue their warrant to sheriff.

Upon receipt of warrant,

sheriff to and execution of such warrant, to be settled by the sheriff, deliver pos- shall be paid by the person refusing to give possession, session and shall be paid by the person refusing to give possession, and the amount of such costs shall be deducted and re- settle costs. tained by the promoters of the undertaking from the com-
Costs to be compensation, if any, then payable by them to such party, or deducted if no such compensation be payable to such party, or if from com- the same be less than the amount of such costs, then such pensation costs, or the excess thereof beyond such compensation, if or levied by not paid on demand, shall be levied by distress, and upon distress. application to any justice for that purpose he shall issue his warrant accordingly.

No party to 92. And be it enacted, That no party shall at any time be required to sell or convey to the promoters of the to sell part undertaking a part only of any house or other building or of a house. manufactory, if such party be willing and able to sell and convey the whole thereof.

Intersected And with respect to small portions of intersected land, *lands.* be it enacted as follows :

— 93. If any lands not being situate in a town or built Owners of upon shall be so cut through and divided by the works as intersected to leave, either on both sides or on one side thereof, a less lands may quantity of land than half a statute acre, and if the owner require pro- of such small parcel of land require the promoters of the moters to purchase the same along with the other purchase the same, land required for the purposes of the special act, the pro- moters of the undertaking shall purchase the same accord-
or to throw be conveniently occupied therewith ; and if such owner into adjoin- have any other land so adjoining, the promoters of the ing land. undertaking shall, if so required by the owner, at their own expense, throw the piece of land so left into such adjoining land, by removing the fences and levelling the sites thereof, and by soiling the same in a sufficient and workmanlike manner.

Promoters 94. If any such land shall be so cut through and divided may insist as to leave on either side of the works a piece of land of on pur- less extent than half a statute acre, or of less value than chase of in- the expense of making a bridge, culvert, or such other com- tersected munication between the land so divided as the promoters lands, where of the undertaking are, under the provisions of this or the expense of special act, or any act incorporated therewith, compellable bridges &c. to make, and if the owner of such lands have not other exceeds the lands adjoining such piece of land, and require the pro- value. moters of the undertaking to make such communication, then the promoters of the undertaking may require such

Disputes as owner to sell to them such piece of land, and any dispute to value to as to the value of such piece of land, or as to what would be ascer- be the expense of making such communication, shall be

ascertained as herein provided for cases of disputed compensation; and on the occasion of ascertaining the value of the land required to be taken for the purposes of the works, the jury or the arbitrators, as the case may be, shall, if required by either party, ascertain by their verdict or award the value of any such severed piece of land, and also what would be the expense of making such communication.

And with respect to copyhold lands, be it enacted as *Copyholds* follows :

95. Every conveyance to the promoters of the undertaking, of any lands which shall be of copyhold or customary tenure, or of the nature thereof, shall be entered on the rolls of the manor of which the same shall be held or parcel; and on payment to the steward of such manor of such fees as would be due to him on the surrender of the same lands to the use of a purchaser thereof he shall make such enrolment; and every such conveyance, when so enrolled, shall have the like effect, in respect of such copyhold or customary lands, as if the same had been of freehold tenure, nevertheless, until such lands shall have been enfranchised by virtue of the powers hereinafter contained, they shall continue subject to the same fines, rents, heriots, and services as were theretofore payable and of right accustomed.

Convey-
ance to pro-
moters of
copyhold
lands to be
entered on
rolls of
manor.

Until en-
franchised
to continue
subject to
fines &c.

96. Within three months after the enrolment of the conveyance of any such copyhold or customary lands, or within one month after the promoters of the undertaking shall enter upon and make use of the same for the purposes of the works, whichever shall first happen, or if more than one parcel of such lands holden of the same manor shall have been taken by them, then within one month after the last of such parcel shall have been so taken or entered on by them, the promoters of the undertaking shall procure the whole of the lands holden of such manor so taken by them to be enfranchised, and for that purpose shall apply to the lord of the manor whereof such lands are holden to enfranchise the same, and shall pay to him such compensation in respect thereof as shall be agreed upon between them and him, and if the parties fail to agree respecting the amount of the compensation to be paid for such enfranchisement the same shall be determined as in other cases of disputed compensation; and in estimating such compensation the loss in respect of the fines, heriots, and other services payable on death, descent, or alienation, or any other matters which would be lost by the vesting of such copyhold or customary lands in the promoters of the undertaking, or by the enfranchisement of the same, shall be allowed for.

Promoters
to procure
lands hold-
en of ma-
nors to be
enfran-
chised and
pay such
compensa-
tion as shall
be agreed
upon or de-
termined as
in other
cases of
disputed
compensa-
tion.

Upon payment or deposit of compensation lord of manor to enfranchise lands, and in default thereof promoters may execute a deed poll.

97. Upon payment or tender of the compensation so agreed upon or determined, or on deposit thereof in the bank in any of the cases hereinbefore in that behalf provided, the lord of the manor whereof such copyhold or customary lands shall be holden shall enfranchise such lands, and the lands so enfranchised shall for ever thereafter be held in free and common soccage; and in default of such enfranchisement by the lord of the manor, or if he fail to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for them, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect of the enfranchisement whereof such compensation shall have been deposited as aforesaid shall be deemed to be enfranchised, and shall be for ever thereafter held in free and common soccage.

If part only of lands subject to copyhold rents be taken, the apportionment of such rent may be settled by agreement or by two justices.

98. If any such copyhold or customary lands be subject to any customary or other rent, and part only of the land subject to any such rent be required to be taken for the purposes of the special act, the apportionment of such rent may be settled by agreement between the owner of the lands and the lord of the manor on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement, then the same shall be settled by two justices; and the enfranchisement of any copyhold or customary lands taken by virtue of this or the special act, or the apportionment of such rents, shall not affect in other respects any custom by or under which any such copyhold or customary lands not taken for such purposes shall be held; and if any of the lands so required be released from any portion of the rents to which they were subject jointly with any other lands, such last-mentioned lands shall be charged with the remainder only of such rents; and with reference to any such apportioned rents, the lord of the manor shall have all the same rights and remedies over the lands to which such apportioned rent shall have been assigned or attributed as he had previously over the whole of the lands subject to such rents for the whole of such rents.

Common lands.

And with respect to any such lands being common or waste lands, be it enacted as follows:

Compensation for right in soil of common lands to be paid to lord of manor or

99. The compensation in respect of the right in the soil of any lands subject to any rights of common shall be paid to the lord of the manor, in case he shall be entitled to the same, or to such party, other than the commoners, as shall be entitled to such right in the soil; and the compensation in respect of all other commonable and other rights in or over such lands, including therein

any commonable or other rights to which the lord of the manor may be entitled, other than his right in the soil of such lands, shall be determined and paid and applied in manner hereinafter provided with respect to common lands the right in the soil of which shall belong to the commoners; and upon payment or deposit in the bank of the compensation so determined all such commonable and other rights shall cease and be extinguished.

100. Upon payment or tender to the lord of the manor, or such other party as aforesaid, of the compensation which shall have been agreed upon or determined in respect of the right in the soil of any such lands, or on deposit thereof in the bank in any of the cases hereinbefore in that behalf provided, such lord of the manor or such other party as aforesaid, shall convey such lands to the promoters of the undertaking, and such conveyance shall have the effect of vesting such lands in the promoters of the undertaking, in like manner as if such lord of the manor, or such other party as aforesaid, had been seised in fee simple of such lands at the time of executing such conveyance; and in default of such conveyance it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect whereof such last-mentioned compensation shall have been deposited as aforesaid shall vest absolutely in the promoters of the undertaking, and they shall be entitled to immediate possession thereof, subject nevertheless to the commonable and other rights theretofore affecting the same, until such rights shall have been extinguished by payment or deposit of the compensation for the same in manner hereinafter provided.

101. The compensation to be paid with respect to any such lands, being common lands, or in the nature thereof, the right to the soil of which shall belong to the commoners, as well as the compensation to be paid for the commonable and other rights in or over common lands the right in the soil whereof shall not belong to the commoners, other than the compensation to the lord of the manor, or other party entitled to the soil thereof, in respect of his right in the soil thereof, shall be determined by agreement between the promoters of the undertaking and a committee of the parties entitled to commonable or other rights in such lands, to be appointed as next hereinafter mentioned.

102. It shall be lawful for the promoters of the undertaking to convene a meeting of the parties entitled to commonable or other rights over or in such lands to be held at some convenient place in the neighbourhood of the

*Common
lands.*

other party
entitled.

Upon pay-
ment or de-
posit of com-
pensation
for right in
soil of com-
mon lands,
the party
entitled to
convey
such lands
to promo-
ters, or in
default they
may exe-
cute a deed
poll.

Compensa-
tion for
rights of
common to
be deter-
mined by
promoters
and com-
mittee of
parties en-
titled.

Promoters
may con-
vene a
meeting o

parties entitled to rights of common by advertisement.

Notice of meeting to be affixed to parish church.

Meeting so called to appoint a committee.

Committee so chosen to agree with the promoters.

As to application of compensation, see Inclosure of Lands Act, 17 & 18 Vict. c. 97, ss. 15 to 20.

Disputes to be settled as in other cases.

If no committee appointed, to be determined by a surveyor.

lands, for the purpose of their appointing a committee to treat with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable or other rights; and every such meeting shall be called by public advertisement, to be inserted once at least in two consecutive weeks in some newspaper circulating in the county or in the respective counties and in the neighbourhood in which such lands shall be situate, the last of such insertions being not more than fourteen nor less than seven days prior to any such meeting; and notice of such meeting shall also, not less than seven days previous to the holding thereof, be affixed upon the door of the parish church where such meeting is intended to be held, or if there be no such church some other place in the neighbourhood to which notices are usually affixed; and if such lands be parcel or holden of a manor, a like notice shall be given to the lord of such manor.

103. It shall be lawful for the meeting so called to appoint a committee, not exceeding five in number, of the parties entitled to any such rights; and at such meeting the decision of the majority of the persons entitled to commonable rights present shall bind the minority and all absent parties.

104. It shall be lawful for the committee so chosen to enter into an agreement with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable and other rights, and all matters relating thereto, for and on behalf of themselves and all other parties interested therein; and all such parties shall be bound by such agreement; and it shall be lawful for such committee to receive the compensation so agreed to be paid, and the receipt of such committee, or of any three of them, for such compensation, shall be an effectual discharge for the same; *and such compensation, when received, shall be apportioned by the committee among the several persons interested therein, according to their respective interests*, but the promoters of the undertaking shall not be bound to see to the apportionment or to the application of such compensation, nor shall they be liable for the misapplication or nonapplication thereof.

105. If upon such committee being appointed they shall fail to agree with the promoters of the undertaking as to the amount of the compensation to be paid as aforesaid, the same shall be determined as in other cases of disputed compensation.

106. If, upon being duly convened by the promoters of the undertaking, no effectual meeting of the parties entitled to such commonable or other rights shall take place, or if, taking place, such meeting fail to appoint such committee, the amount of such compensation shall be determined by

a surveyor, to be appointed by two justices, as hereinbefore provided in the case of parties who cannot be found.

107. Upon payment or tender to such committee, or any three of them, or if there shall be no such committee, then upon deposit in the bank in the manner provided in the like case of the compensation which shall have been agreed upon or determined in respect of such commonable or other rights, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect of which such compensation shall have been so paid or deposited shall vest in the promoters of the undertaking, freed and discharged from all such commonable or other rights, and they shall be entitled to immediate possession thereof; and it shall be lawful for the Court of Chancery in England or the Court of Exchequer in Ireland, by an order to be made upon petition, to order payment of the money so deposited to a committee to be appointed as aforesaid, or to make such other order in respect thereto, for the benefit of the parties interested, as it shall think fit.

And with respect to lands subject to mortgage, be it enacted as follows:

108. It shall be lawful for the promoters of the undertaking to purchase or redeem the interest of the mortgagee of any such lands which may be required for the purposes of the special act, and that whether they shall have previously purchased the equity of redemption of such lands or not, and whether the mortgagee thereof be entitled thereto in his own right or in trust for any other party, and whether he be in possession of such lands by virtue of such mortgage or not, and whether such mortgage affect such lands solely, or jointly with any other lands not required for the purposes of the special act, and in order thereto the promoters of the undertaking may pay or tender to such mortgagee the principal and interest due on such mortgage, together with his costs and charges, if any, and also six months' additional interest, and thereupon such mortgagee shall immediately convey his interest in the lands comprised in such mortgage to the promoters of the undertaking, or as they shall direct, or the promoters of the undertaking may give notice in writing to such mortgagee that they will pay off the principal and interest due on such mortgage at the end of six months, computed from the day of giving such notice; and if they shall have given any such notice, or if the party entitled to the equity of redemption of any such lands shall have given six months' notice of his intention to redeem the

Upon payment or deposit of compensation payable to commoners the promoters may execute a deed poll, and thereupon the lands to vest.

Lands in mortgage.

Promoters may purchase or redeem interest of mortgagee

by paying principal, interest, and costs, with six months' additional interest, or may give notice to pay off principal and interest at end of six months.

Lands in mortgage.

Upon payment or tender of money mortgagee to release his interest.

If mortgagee fail to release his interest in lands, promoters may deposit money in bank and execute a deed poll.

Interest of mortgagee to vest in the promoters.

If mortgaged lands be of less value the compensation to be settled by agreement or determined as in other cases of disputed compensation.

same, then at the expiration of either of such notices, or at any intermediate period, upon payment or tender by the promoters of the undertaking to the mortgagee of the principal money due on such mortgage, and the interest which would become due at the end of six months from the time of giving either of such notices, together with his costs and expenses, if any, such mortgagee shall convey or release his interest in the lands comprised in such mortgage to the promoters of the undertaking, or as they shall direct.

109. If, in either of the cases aforesaid, upon such payment or tender, any mortgagee shall fail to convey or release his interest in such mortgage as directed by the promoters of the undertaking, or if he fail to adduce a good title thereto to their satisfaction, then it shall be lawful for the promoters of the undertaking to deposit in the bank, in the manner provided by this act in like cases, the principal and interest, together with the costs, if any, due on such mortgage, and also, if such payment be made before the expiration of six months' notice as aforesaid, such further interest as would at that time become due; and it shall be lawful for them, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon, as well as upon such conveyance by the mortgagee, if any such be made, all the estate and interest of such mortgagee, and of all persons in trust for him, or for whom he may be a trustee, in such lands, shall vest in the promoters of the undertaking, and they shall be entitled to immediate possession thereof in case such mortgagee were himself entitled to such possession.

110. If any such mortgaged lands shall be of less value than the principal, interest, and costs secured thereon, the value of such lands, or the compensation to be made by the promoters of the undertaking in respect thereof, shall be settled by agreement between the mortgagee of such lands and the party entitled to the equity of redemption thereof on the one part, and the promoters of the undertaking on the other part, and if the parties aforesaid fail to agree respecting the amount of such value or compensation, the same shall be determined as in other cases of disputed compensation; and the amount of such value or compensation, being so agreed upon or determined, shall be paid by the promoters of the undertaking to the mortgagee in satisfaction of his mortgage debt so far as the same will extend, and upon payment or tender thereof the mortgagee shall convey or release all his interest in such mortgaged lands to the promoters of the undertaking, or as they shall direct.

111. If, upon such payment or tender as aforesaid being made, any such mortgagee fail so to convey his interest in such mortgage, or to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for them to deposit the amount of such value or compensation in the bank, in the manner provided by this act in like cases, and every such payment or deposit shall be accepted by the mortgagee in satisfaction of his mortgage debt, so far as the same will extend, and shall be a full discharge of such mortgaged lands from all money due thereon; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon such lands, as to all such estate and interest as were then vested in the mortgagee, or any person in trust for him, shall become absolutely vested in the promoters of the undertaking, and they shall be entitled to immediate possession thereof in case such mortgagee were himself entitled to such possession; nevertheless, all rights and remedies possessed by the mortgagee against the mortgagor, by virtue of any bond or covenant or other obligation, other than the right to such lands, shall remain in force in respect of so much of the mortgage debt as shall not have been satisfied by such payment or deposit.

If upon payment or tender mortgagee fail to convey, promoters may deposit money in bank and execute a deed poll.

Rights of mortgagee against mortgagor to remain in force.

112. If a part only of any such mortgaged lands be required for the purposes of the special act, and if the part so required be of less value than the principal money, interest, and costs secured on such lands, and the mortgagee shall not consider the remaining part of such lands a sufficient security for the money charged thereon, or be not willing to release the part so required, then the value of such part, and also the compensation (if any) to be paid in respect of the severance thereof or otherwise, shall be settled by agreement between the mortgagee and the party entitled to the equity of redemption of such land on the one part, and the promoters of the undertaking on the other, and if the parties aforesaid fail to agree respecting the amount of such value or compensation the same shall be determined as in other cases of disputed compensation; and the amount of such value or compensation, being so agreed upon or determined, shall be paid by the promoters of the undertaking to such mortgagee in satisfaction of his mortgage debt, so far as the same will extend; and thereupon such mortgagee shall convey or release to them, or as they shall direct, all his interest in such mortgaged lands the value whereof shall have been so paid; and a memorandum of what shall have been so paid shall be endorsed on the deed creating such mortgage, and shall be

If part only of mortgaged lands be required, the value to be settled by agreement or determined as in other cases of disputed compensation.

Amount paid to be endorsed on mortgage deed.

Lands in mortgage. — signed by the mortgagee; and a copy of such memorandum shall at the same time (if required) be furnished by the promoters of the undertaking, at their expense, to the party entitled to the equity of redemption of the lands comprised in such mortgage deed.

If upon payment or tender mortgagee fail to convey, promoters may deposit money in bank and execute a deed poll.

113. If, upon payment or tender to any such mortgagee of the amount of the value or compensation so agreed upon or determined, such mortgagee shall fail to convey or release to the promoters of the undertaking, or as they shall direct, his interest in the lands in respect of which such compensation shall so have been paid or tendered, or if he shall fail to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for the promoters of the undertaking to pay the amount of such value or compensation into the bank, in the manner provided by this act in the case of monies required to be deposited in such bank, and such payment or deposit shall be accepted by such mortgagee in satisfaction of his mortgage debt, so far as the same will extend, and shall be a full discharge of the portion of the mortgaged lands so required from all money due thereon; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon such lands shall become absolutely vested in the promoters of the undertaking, as to all such estate and interest as were then vested in the mortgagee, or any person in trust for him, and in case such mortgagee were himself entitled to such possession they shall be entitled to immediate possession thereof; nevertheless, every such mortgagee shall have the same powers and remedies for recovering or compelling payment of the mortgage money, or the residue thereof (as the case may be), and the interest thereof respectively, upon and out of the residue of such mortgaged lands, or the portion thereof not required for the purposes of the special act, as he would otherwise have had or been entitled to for recovering or compelling payment thereof upon or out of the whole of the lands originally comprised in such mortgage.

Rights of mortgagee against residue of mortgaged lands to remain in force.

In cases of mortgages to be paid off at a stipulated time, promoters to pay costs of re-investment.

114. Provided always, that in any of the cases hereinbefore provided with respect to lands subject to mortgage, if in the mortgage deed a time shall have been limited for payment of the principal money thereby secured, and under the provisions hereinbefore contained the mortgagee shall have been required to accept payment of his mortgage money, or of part thereof, at a time earlier than the time so limited, the promoters of the undertaking shall pay to such mortgagee, in addition to the sum which shall have been so paid off, all such costs and expenses as shall be

incurred by such mortgagee in respect of or which shall be incidental to the re-investment of the sum so paid off, such costs in case of difference to be taxed and payment thereof enforced in the manner herein provided with respect to the costs of conveyances; and if the rate of interest secured by such mortgage be higher than at the time of the same being so paid off can reasonably be expected to be obtained on re-investing the same, regard being had to the then current rate of interest, such mortgagee shall be entitled to receive from the promoters of the undertaking, in addition to the principal and interest hereinbefore provided for, compensation in respect of the loss to be sustained by him by reason of his mortgage money being so prematurely paid off, the amount of such compensation to be ascertained, in case of difference, as in other cases of disputed compensation; and until payment or tender of such compensation as aforesaid the promoters of the undertaking shall not be entitled, as against such mortgagee, to possession of the mortgaged lands under the provision hereinbefore contained.

Lands in mortgage.
—

and compensation for loss of interest.

And with respect to lands charged with any rent service, rent-charge, or chief or other rent, or other payment or incumbrance not hereinbefore provided for, be it enacted as follows:

Rent-charges.
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115. If any difference shall arise between the promoters of the undertaking and the party entitled to any such charge upon any lands required to be taken for the purposes of the special act, respecting the consideration to be paid for the release of such lands therefrom, or from the portion thereof affecting the lands required for the purposes of the special act, the same shall be determined as in other cases of disputed compensation.

Differences to be determined as in other cases of disputed compensation.

116. If part only of the lands charged with any such rent service, rent-charge, chief or other rent, payment, or incumbrance, be required to be taken for the purposes of the special act, the apportionment of any such charge may be settled by agreement between the party entitled to such charge and the owner of the lands on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement the same shall be settled by two justices; but if the remaining part of the lands so jointly subject be a sufficient security for such charge, then, with consent of the owner of the lands so jointly subject, it shall be lawful for the party entitled to such charge to release therefrom the lands required, on condition or in consideration of such other lands remaining exclusively subject to the whole thereof.

If part only of lands be required the apportionment of rent-charge may be settled by agreement or by two justices.

117. Upon payment or tender of the compensation so

If upon pay.

Rent-charges.

ment or
tender parties fail to
release
such charge
promoters
may deposit
money in
bank and
execute a
deed poll.

agreed upon or determined to the party entitled to any such charge as aforesaid, such party shall execute to the promoters of the undertaking a release of such charge; and if he fail so to do, or if he fail to adduce good title to such charge, to the satisfaction of the promoters of the undertaking, it shall be lawful for them to deposit the amount of such compensation in the bank in the manner hereinbefore provided in like cases, and also, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the rent service, rent-charge, chief or other rent, payment or incumbrance, or the portion thereof in respect whereof such compensation shall so have been paid, shall cease and be extinguished.

Charge to
continue on
lands not
taken.

118. If any such lands be so released from any such charge or incumbrance, or portion thereof, to which they were subject jointly with other lands, such last-mentioned lands shall alone be charged with the whole of such charge, or with the remainder thereof, as the case may be, and the party entitled to the charge shall have all the same rights and remedies over such last-mentioned lands, for the whole or for the remainder of the charge, as the case may be, as he had previously over the whole of the lands subject to such charge; and if upon any such charge or portion of charge being so released the deed or instrument creating or transferring such charge be tendered to the promoters of the undertaking for the purpose, they or two of them shall subscribe, or if they be a corporation shall affix their common seal to a memorandum of such release endorsed on such deed or instrument, declaring what part of the lands originally subject to such charge shall have been purchased by virtue of the special act, and if the lands be released from part of such charge, what proportion of such charge shall have been released, and how much thereof continues payable, or if the lands so required shall have been released from the whole of such charge, then that the remaining lands are thenceforward to remain exclusively charged therewith; and such memorandum shall be made and executed at the expense of the promoters of the undertaking, and shall be evidence in all courts and elsewhere of the facts therein stated, but not so as to exclude any other evidence of the same facts.

Promoters
to sub-
scribe me-
morandum
on deed
creating
such
charge, de-
claring
what part
of lands
have been
purchased.

Leases.

And with respect to lands subject to leases, be it enacted as follows:

If part only
of lands
under lease
be required,

119. If any lands shall be comprised in a lease for a term of years unexpired, part only of which lands shall be required for the purposes of the special act, the rent payable in respect of the lands comprised in such lease shall

be apportioned between the lands so required and the residue of such lands; and such apportionment may be settled by agreement between the lessor and lessee of such lands on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement between the parties, such apportionment shall be settled by two justices; and after such apportionment the lessee of such lands shall, as to all future accruing rent, be liable only to so much of the rent as shall be so apportioned in respect of the lands not required for the purposes of the special act; and as to the lands not so required, and as against the lessee, the lessor shall have all the same rights and remedies for the recovery of such portion of rent as previously to such apportionment he had for the recovery of the whole rent reserved by such lease; and all the covenants, conditions, and agreements of such lease, except as to the amount of rent to be paid, shall remain in force with regard to that part of the land which shall not be required for the purposes of the special act, in the same manner as they would have done in case such part only of the land had been included in the lease.

120. Every such lessee as last aforesaid shall be entitled to receive from the promoters of the undertaking compensation for the damage done to him in his tenancy by reason of the severance of the lands required from those not required, or otherwise by reason of the execution of the works.

121. If any such lands shall be in the possession of any person having no greater interest therein than as tenant for a year or from year to year, and if such person be required to give up possession of any lands so occupied by him before the expiration of his term or interest therein, he shall be entitled to compensation for the value of his unexpired term or interest in such lands, and for any just allowance which ought to be made to him by an incoming tenant, and for any loss or injury he may sustain, or if a part only of such lands be required, compensation for the damage done to him in his tenancy by severing the lands held by him, or otherwise injuriously affecting the same; and the amount of such compensation shall be determined by two justices, in case the parties differ about the same; and upon payment or tender of the amount of such compensation all such persons shall respectively deliver up to the promoters of the undertaking, or to the person appointed by them to take possession thereof, any such lands in their possession required for the purposes of the special act.

122. If any party, having a greater interest than

Leases.
 —
 claiming
 compensa-
 tion under
 a lease to
 produce the
 same.

tenant at will, claim compensation in respect of any unexpired term or interest under any lease or grant of any such lands, the promoters of the undertaking may require such party to produce the lease or grant in respect of which such claim shall be made, or the best evidence thereof in his power ; and if, after demand made in writing by the promoters of the undertaking, such lease or grant, or such best evidence thereof, be not produced within twenty-one days, the party so claiming compensation shall be considered as a tenant holding only from year to year, and be entitled to compensation accordingly.

*Limit of
 time for
 compul-
 sory pur-
 chase.*

123. And be it enacted, That the powers of the promoters of the undertaking for the compulsory purchase or taking of lands for the purposes of the special act shall not be exercised after the expiration of the prescribed period, and if no period be prescribed not after the expiration of three years from the passing of the special act.

*Interests
 omitted to
 be pur-
 chased.*

And with respect to interests in lands which have by mistake been omitted to be purchased, be it enacted as follows :

—
 Promoters
 may pur-
 chase inte-
 rests in
 lands the
 purchase
 whereof
 have been
 omitted by
 mistake.

124. If, at any time after the promoters of the undertaking shall have entered upon any lands which under the provisions of this or the special act, or any act incorporated therewith, they were authorized to purchase, and which shall be permanently required for the purposes of the special act, any party shall appear to be entitled to any estate, right, or interest in or charge affecting such lands which the promoters of the undertaking shall through mistake or inadvertence have failed or omitted duly to purchase or to pay compensation for, then, whether the period allowed for the purchase of lands shall have expired or not, the promoters of the undertaking shall remain in the undisturbed possession of such lands, provided within six months after notice of such estate, right, interest, or charge, in case the same shall not be disputed by the promoters of the undertaking, or in case the same shall be disputed then within six months after the right thereto shall have been finally established by law in favour of the party claiming the same, the promoters of the undertaking shall purchase or pay compensation for the same, and shall also pay to such party, or to any other party who may establish a right thereto, full compensation for the mesne profits or interest which would have accrued to such parties respectively in respect thereof during the interval between the entry of the promoters of the undertaking thereon and the time of the payment of such purchase money or compensation by the promoters of the undertaking, so far as such mesne profits or interest may be recoverable in law or equity ; and such purchase money

Within six
 months
 after notice
 or recogni-
 tion of right
 of claimant
 promoters
 to pay com-
 pensation,

or compensation shall be agreed on or awarded and paid to be in like manner as according to the provisions of this act agreed on or the same respectively would have been agreed on or awarded and paid in case the promoters of the undertaking and paid in had purchased such estate, right, interest, or charge in manner be- before their entering upon such land, or as near thereto as fore pro- vided. circumstances will admit.

125. In estimating the compensation to be given for Value of any such last-mentioned lands, or any estate or interest in such lands the same, or for any mesne profits thereof, the jury, or to be esti- arbitrators, or justices, as the case may be, shall assess the mated with- same according to what they shall find to have been the out regard value of such lands, estate, or interest, and profits, at the to improve- time such lands were entered upon by the promoters of ments made the undertaking, and without regard to any improvements by promo- or works made in the said lands by the promoters of the ters. undertaking, and as though the works had not been constructed.

126. In addition to the said purchase money, compen- Promoters sation, or satisfaction, and before the promoters of the to pay costs undertaking shall become absolutely entitled to any such of litigation estate, interest, or charge, or to have the same merged or as to such extinguished for their benefit, they shall, when the right lands, if to any such estate, interest, or charge shall have been dis- right deter- puted by the company, and determined in favour of the mined in party claiming the same, pay the full costs and expenses favour of of any proceedings at law or in equity for the determina- claimant. tion or recovery of the same to the parties with whom any such litigation in respect thereof shall have taken place; and such costs and expenses shall, in case the same shall be disputed, be settled by the proper officer of the court in which such litigation took place.

And with respect to lands acquired by the promoters *Sale of su-* of the undertaking under the provisions of this or the *perfluous* special act, or any act incorporated therewith, but which *land.* shall not be required for the purposes thereof, be it enacted as follows: —

127. Within the prescribed period, or if no period be Within pre- prescribed within ten years after the expiration of the time scribed limited by the special act for the completion of the works, period lands the promoters of the undertaking shall absolutely sell and not wanted to be sold, dispose of all such superfluous lands, and apply the purchase money arising from such sales to the purposes of the special act; and in default thereof all such superfluous in default to lands remaining unsold at the expiration of such period vest in shall thereupon vest in and become the property of the owners of owners of the lands adjoining thereto, in proportion to adjoining the extent of their lands respectively adjoining the same. lands.

128. Before the promoters of the undertaking dispose of Superflu-

ous lands
before sale
to be offered
to owner of
lands from
which they
were origi-
nally taken,
or to adjoin-
ing owners.

any such superfluous lands they shall, unless such lands be situate within a town, or be lands built upon or used for building purposes, first offer to sell the same to the person then entitled to the lands (if any) from which the same were originally severed; or if such person refuse to purchase the same, or cannot after diligent inquiry be found, then the like offer shall be made to the person or to the several persons whose lands shall immediately adjoin the lands so proposed to be sold, such persons being capable of entering into a contract for the purchase of such lands; and where more than one such person shall be entitled to such right of pre-emption such offer shall be made to such persons in succession, one after another, in such order as the promoters of the undertaking shall think fit.

Right of
pre-emption
to be claim-
ed within
six weeks
after offer
of sale.

129. If any such persons be desirous of purchasing such lands, then within six weeks after such offer of sale they shall signify their desire in that behalf to the promoters of the undertaking, or if they decline such offer, or if for six weeks they neglect to signify their desire to purchase such lands, the right of pre-emption of every such person so declining or neglecting in respect of the lands included in such offer shall cease; and a declaration in writing made before a justice by some person not interested in the matter in question, stating that such offer was made and was refused, or not accepted within six weeks from the time of making the same, or that the person or all the persons entitled to the right of pre-emption were out of the country, or could not after diligent inquiry be found, or were not capable of entering into a contract for the purchase of such lands, shall in all courts be sufficient evidence of the facts therein stated.

Declaration
before jus-
tice evi-
dence that
such offer
was made.

Differences
as to price
to be settled
by arbitra-
tion.

130. If any person entitled to such pre-emption be desirous of purchasing any such lands, and such person and the promoters of the undertaking do not agree as to the price thereof, then such price shall be ascertained by arbitration, and the costs of such arbitration shall be in the discretion of the arbitrators.

Upon pay-
ment or
tender of
purchase
money
lands to be
conveyed to
the pur-
chasers.

131. Upon payment or tender to the promoters of the undertaking of the purchase money so agreed upon or determined as aforesaid they shall convey such lands to the purchasers thereof by deed under the common seal of the promoters of the undertaking, if they be a corporation, or if not a corporation under the hands and seals of the promoters of the undertaking or any two of the directors or managers thereof acting by the authority of the body; and a deed so executed shall be effectual to vest the lands comprised therein in the purchaser of such lands for the estate which shall so have been purchased by him; and a receipt under such common seal, or under the hands of two of the

Receipt to
be a suffi-

directors or managers of the undertaking as aforesaid, shall be a sufficient discharge to the purchaser of any such lands for the purchase money in such receipt expressed to be received.

132. In every conveyance of lands to be made by the promoters of the undertaking under this or the special act the word "grant" shall operate as express covenants by the promoters of the undertaking, for themselves and their successors, or for themselves, their heirs, executors, administrators, and assigns, as the case may be, with the respective grantees therein named, and the successors, heirs, executors, administrators, and assigns of such grantees, according to the quality or nature of such grants, and of the estate or interest therein expressed to be thereby conveyed, as follows, except so far as the same shall be restrained or limited by express words contained in any such conveyance; (that is to say,)

A covenant that, notwithstanding any act or default done by the promoters of the undertaking, they were at the time of the execution of such conveyance seised or possessed of the lands or premises thereby granted for an indefeasible estate of inheritance in fee simple, free from all incumbrances done or occasioned by them, or otherwise for such estate or interest as therein expressed to be thereby granted, free from incumbrances done or occasioned by them: Effect of the word "grant" in conveyances of land by promoters

A covenant that the grantee of such lands, his heirs, successors, executors, administrators, and assigns, (as the case may be,) shall quietly enjoy the same against the promoters of the undertaking, and their successors, and all other persons claiming under them, and be indemnified and saved harmless by the promoters of the undertaking and their successors from all incumbrances created by the promoters of the undertaking: Estate of inheritance in fee simple free from incumbrances

A covenant for further assurance of such lands, at the expense of such grantee, his heirs, successors, executors, administrators, or assigns, (as the case may be,) by the promoters of the undertaking, or their successors, and all other persons claiming under them: Quiet enjoyment

And all such grantees, and their several successors, heirs, executors, administrators, and assigns respectively, according to their respective quality or nature, and the estate or interest in such conveyance expressed to be conveyed, may in all actions brought by them assign breaches of covenants, as they might do if such covenants were expressly inserted in such conveyances. Assurance of lands.

133. And be it enacted, That if the promoters of the undertaking become possessed by virtue of this or the special act, or any act incorporated therewith, of any lands charged with the land tax, or liable to be assessed to the Grantees may assign breaches of covenants as if inserted in conveyance

Land tax and poor's rate.

Deficiency to be made good by promoters. poor's rate, they shall from time to time, until the works shall be completed and assessed to such land tax or poor's rate, be liable to make good the deficiency in the several assessments for land tax and poor's rate by reason of such lands having been taken or used for the purposes of the works, and such deficiency shall be computed according to the rental at which such lands, with any building thereon, were valued or rated at the time of the passing of the special act; and on demand of such deficiency the promoters of the undertaking, or their treasurer, shall pay all such deficiencies to the collector of the said assessments respectively; nevertheless, if at any time the promoters of the undertaking think fit to redeem such land tax, they may do so in accordance with the powers in that behalf given by the acts for the redemption of the land tax.

Power to redeem land tax.

Service of notices upon company.
—

134. And be it enacted, That any summons or notice, or any writ or other proceeding at law or in equity, requiring to be served upon the promoters of the undertaking, may be served by the same being left at or transmitted through the post directed to the principal office of the promoters of the undertaking, or one of the principal offices where there shall be more than one, or being given or transmitted through the post directed to the secretary, or in case there be no secretary the solicitor of the said promoters.

Tender of amends.
—

Parties on tender of sufficient amends not to recover in any action.

135. And be it enacted, That if any party shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the special act, or any act incorporated therewith, or by virtue of any power or authority thereby given, and if, before action brought in respect thereof, such party make tender of sufficient amends to the party injured, such last mentioned party shall not recover in any such action; and if no such tender shall have been made it shall be lawful for the defendant, by leave of the court where such action shall be pending, at any time before issue joined, to pay into court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

Recovery of penalties.
—

Penalties not otherwise provided for may be recovered by summary proceeding.

And with respect to the recovery of forfeitures, penalties, and costs, be it enacted as follows:

136. Every penalty or forfeiture imposed by this or the special act, or by any bye-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before two justices; and on complaint being made to any justice he shall issue a summons requiring the party complained against to appear before two justices at a time and place to be named in such summons; and every such summons shall be served on the party offending either in person or by

leaving the same with some inmate at his usual place of abode; and upon the appearance of the party complained against, or in his absence, after proof of the due service of such summons, it shall be lawful for any two justices to proceed to the hearing of the complaint, and that although no information in writing or in print shall have been exhibited before them; and upon proof of the offence, either by the confession of the party complained against, or upon the oath of one credible witness or more, it shall be lawful for such justices to convict the offender, and upon such conviction to adjudge the offender to pay the penalty or forfeiture incurred, as well as such costs attending the conviction as such justices shall think fit.

Recovery of penalties.

Upon proof of offence justices may order payment

137. If, forthwith upon any such adjudication as aforesaid, the amount of the penalty or forfeiture, and of such costs as aforesaid, be not paid, the amount of such penalty and costs shall be levied by distress, and such justices or either of them shall issue their or his warrant of distress accordingly.

Penalties may be levied by distress.

138. Where in this or the special act, or any act incorporated therewith, any sum of money, whether in the nature of penalty, costs, or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Distress to be levied by sale of goods of party liable.

Overplus to be repaid.

139. The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed to be applied in aid of the poor's rate of such parish, or if the place wherein the offence shall have been committed shall be extra-parochial then such justices shall direct such remainder to be applied in aid of the poor's rate of such extra-parochial place, or if there shall not be any poor's rate therein in aid of the poor's rate of any adjoining parish or district.

Justices may award one-half of penalties to informer and remainder to overseer of the poor.

140. If any such sum shall be payable by the promoters of the undertaking, and if sufficient goods of the said promoters cannot be found whereon to levy the same, it may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the said promoters, and the justices aforesaid, or either of them, on application, shall issue their or his warrant accordingly; but no such distress shall issue against the goods of

Sums not exceeding 20*l.* may be recovered by distress of goods of treasurer.

Recovery of such treasurer unless seven days' previous notice in penalties. writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer or left at his residence ; and if such treasurer pay any money under such distress as aforesaid he may retain the amount so paid by him, and all costs and expenses occasioned thereby, out of any money belonging to the promoters of the undertaking coming into his custody or control, or he may sue them for the same.

Treasurer may sue the company.

Distress not to be deemed unlawful for want of form.

141. No distress levied by virtue of this or the special act, or any act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser "ab initio" on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

Penalties to be sued for within six months.

142. No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this or the special act, or any act incorporated therewith, for any offence made cognizable before a justice, unless the complaint respecting such offence shall have been made before such justice within six months next after the commission of such offence.

Justices may summon witnesses.

143. It shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction under the provisions of this or the special act at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter ; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence.

Witnesses making default to forfeit 5*l.*

Form of conviction.

144. The justices before whom any person shall be convicted of any offence against this or the special act, or any act incorporated therewith, may cause the conviction to be drawn up according to the form in the schedule (C.) to this act annexed.

Proceedings not vacated for want of form.

145. No proceeding in pursuance of this or the special act, or any act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts.

146. If any party shall feel aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture under the provisions of this or the special act, or any act incorporated therewith, such party may appeal to the general quarter sessions for the county or place in which the cause of appeal shall have arisen; but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication, nor unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith after such notice enter into recognizances, with two sufficient sureties, before a justice, conditioned duly to prosecute such appeal, and to abide the order of the court thereon.

Parties aggrieved by decision of justice may appeal to quarter sessions on giving security.

147. At the quarter sessions for which such notice shall be given the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions; and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

Court may make such order as they think reasonable.

148. Provided always, and be it enacted, That notwithstanding anything herein or in the special act, or any act incorporated therewith, contained, every penalty or forfeiture imposed by this or the special act or any act incorporated therewith, or by any bye-law in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the metropolitan police district, and shall be applied in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied by an act passed in the third year of the reign of her present Majesty, intituled "An Act for regulating the Police Courts in the Metropolis," and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal and upon the same terms as is provided in respect of

Receiver of the metropolitan police district to receive penalties incurred within his district.

2 & 3 Vict. c. 71.

Recovery of penalties. — any order or conviction of any of the said police magistrates by the said last-mentioned act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expenses as he or they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned act.

Persons giving false evidence liable to penalties. 149. And be it enacted, That any person who upon any examination upon oath under the provisions of this or the special act, or any act incorporated therewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

Access to special act. — And with respect to the provision to be made for affording access to the special act by all parties interested, be it enacted as follows :

Copies of special act to be kept at principal office and deposited with clerks of the peace. 150. The company shall, at all times after the expiration of six months after the passing of the special act, keep in their principal office of business a copy of the special act, printed by the printers to her Majesty, or some of them; and where the undertaking shall be a railway, canal, or other like undertaking, the works of which shall not be confined to one town or place, shall also within the space of such six months deposit in the office of each of the clerks of the peace of the several counties into which the works shall extend a copy of such special act so printed as aforesaid; and the said clerks of the peace shall receive, and they and the company respectively shall retain, the said copies of the special act, and shall permit all persons

Inspection. interested to inspect the same, and make extracts or copies therefrom, in the like manner and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by an act passed in the first year of the reign of her present Majesty, intituled
See 7 W. IV. & 1 Vict. c. 83. s. 3. “An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament.”

Penalty on company failing to keep or deposit copies. 151. If the company shall fail to keep or deposit, as hereinbefore mentioned, any of the said copies of the special act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

Scotland. 152. And be it enacted, That this act shall not extend to Scotland.

Act may be amended or repealed. 153. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of parliament.

SCHEDULES referred to in the foregoing Act.

A.—*Form of Conveyance.*

A.

I of in consideration of the sum Form of
of paid to me [or, as the case may be, into convey-
the bank of England [or bank of Ireland], in the name and ance.
with the privity of the accountant-general of the Court of
Chancery, ex parte "the promoters of the undertaking"
[naming them], or to A.B. of and C.D. of
. two trustees appointed to receive the same],
pursuant to the [here name the special act], by the [here
name the company or other promoters of the undertaking],
incorporated [or constituted] by the said act, do hereby
convey to the said company [or other description], their
successors and assigns, all [describing the premises to be
conveyed], together with all ways, rights, and appurte-
nances thereto belonging, and all such estate, right, title,
and interest in and to the same as I am or shall become
seised or possessed of, or am by the said act empowered
to convey, to hold the premises to the said company [or
other description], their successors and assigns for ever,
according to the true intent and meaning of the said act.
In witness whereof I have hereunto set my hand and seal,
the day of in the year of our Lord

B.—*Form of Conveyance on Chief Rent.*

B.

I of in consideration of the rent- Form of
charge to be paid to me, my heirs and assigns, as herein- conveyance
after mentioned, by "the promoters of the undertaking" on chief
[naming them], incorporated [or constituted] by virtue of rent.
the [here name the special act], do hereby convey to the
said company [or other description], their successors and
assigns, all [describing the premises to be conveyed],
together with all ways, rights, and appurtenances there-
unto belonging, and all my estate, right, title, and interest
in and to the same and every part thereof, to hold the said
premises to the said company [or other description], their
successors and assigns, for ever, according to the true
intent and meaning of the said act, they the said company
[or other description], their successors and assigns, yield-
ing and paying unto me, my heirs and assigns, one clear
yearly rent of by equal quarterly [or half-
yearly, as agreed upon,] portions, henceforth, on the
[stating the days], clear of all taxes and deductions. In
witness whereof I hereunto set my hand and seal, the
. day of in the year of our Lord

Schedules.

C.—Form of Conviction.

C.
Form of
conviction.

to wit.

BE it remembered, that on the day of
in the year of our Lord A.B. is convicted
before us C., D., two of her Majesty's justices of the peace
for the county of [here describe the offence
generally, and the time and place when and where com-
mitted], contrary to the [here name the special act].
Given under our hands and seals, the day and year first
above written. C., D.

8 VICT. cap. 20.

*An Act for consolidating in One Act certain pro-
visions usually inserted in Acts authorizing the
making of Railways. [8th May, 1845.]*

Preamble. WHEREAS it is expedient to comprise in one general
act sundry provisions usually introduced into acts of par-
liament authorizing the construction of railways, and that,
as well for the purpose of avoiding the necessity of repeat-
ing such provisions in each of the several acts relating to
such undertakings, as for ensuring greater uniformity in
the provisions themselves: and whereas a bill is now
8 Vict. c. 18. pending in parliament, intituled "An Act for consolidat-
ing in one Act certain Provisions usually inserted in Acts
authorizing the taking of Lands for Undertakings of a
public Nature," and which is intended to be called "The
Lands' Clauses Consolidation Act, 1845:"

Operation
of this act
confined to
future rail-
ways. 1. May it therefore please your Majesty that it may be
enacted; and be it enacted by the Queen's most excellent
Majesty, by and with the advice and consent of the Lords
spiritual and temporal, and Commons, in this present
Parliament assembled, and by the authority of the same,
That this act shall apply to every railway which shall by
any act which shall hereafter be passed be authorized to
be constructed, and this act shall be incorporated with
such act; and all the clauses and provisions of this act,
save so far as they shall be expressly varied or excepted by
any such act, shall apply to the undertaking authorized
thereby, so far as the same shall be applicable to such
undertaking, and shall, as well as the clauses and provi-
sions of every other act which shall be incorporated with
such act, form part of such act, and be construed together
therewith as forming one act.

And with respect to the construction of this act and of other acts to be incorporated therewith, be it enacted as follows: *Interpretations in this act.*

2. The expression "the special act," used in this act, shall be construed to mean any act which shall be hereafter passed authorizing the construction of a railway, and with which this act shall be so incorporated as aforesaid; and the word "prescribed," used in this act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special act; and the sentence in which such word shall occur shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special act" had been used; and the expression "the lands" shall mean the lands which shall by the special act be authorized to be taken or used for the purposes thereof; and the expression "the undertaking" shall mean the railway and works, of whatever description, by the special act authorized to be executed. *"Special act."*
"Prescribed."
"The lands."
"The undertaking."

3. The following words and expressions, both in this and the special act, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,) *Interpretations in this and the special act.*

Words importing the singular number only shall include the plural number; and words importing the plural number only shall include also the singular number: *Number.*

Words importing the masculine gender only shall include females: *Gender.*

The word "lands" shall include messuages, lands, tenements, and hereditaments of any tenure: *"Lands."*

The word "lease" shall include an agreement for a lease: *"Lease."*

The word "toll" shall include any rate or charge or other payment payable under the special act for any passenger, animal, carriage, goods, merchandize, articles, matters, or things conveyed on the railway: *"Toll."*

The word "goods" shall include things of every kind conveyed upon the railway: *"Goods."*

The word "month" shall mean calendar month: *"Month."*

The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require: *"Superior courts."*

The word "oath" shall include affirmation in the case of quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath: *"Oath."*

The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town: *"County."*

"The
sheriff."

"The clerk
of the
peace."

"Justice."

"Two jus-
tices."

"Owner."

"The com-
pany."

"The rail-
way."

"Board of
Trade."

The word "sheriff" shall include under sheriff or other legally competent deputy; and where any matter in relation to any lands is required to be done by any sheriff or clerk of the peace, the expression "the sheriff," or the expression "the clerk of the peace," shall in such case be construed to mean the sheriff or the clerk of the peace of the county, city, borough, liberty, cinque port, or place where such lands shall be situate; and if the lands in question, being the property of one and the same party, be situate not wholly in one county, city, borough, liberty, cinque port, or place, the same expression shall be construed to mean the sheriff or clerk of the peace of any county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate:

The word "justice" shall mean justice of the peace acting for the county, city, borough, liberty, cinque port, or place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter; and where such matter shall arise in respect of lands, being the property of one and the same party, situate not wholly in any one county, city, borough, liberty, cinque port, or place, shall mean a justice acting for the county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate, and who shall not be interested in such matter; and where any matter shall be authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together:

Where under the provisions of this or the special act any notice shall be required to be given to the owner of any lands, or where any act shall be authorized or required to be done with the consent of any such owner, the word "owner" shall be understood to mean any person or corporation who, under the provisions of this or the special act, or any act incorporated therewith, would be enabled to sell and convey lands to the company:

The expression "the company" shall mean the company or party which shall be authorized by the special act to construct the railway:

The expression "the railway" shall mean the railway and works by the special act authorized to be constructed:

The expression "the Board of Trade" shall mean the lords of the committee of her Majesty's privy council appointed for trade and foreign plantations:

The expression "the bank" shall mean the bank of "The
England, where the same shall relate to monies to be bank."
paid or deposited in respect of lands situate in Eng-
land; and shall mean the bank of Ireland where the
same shall relate to monies to be paid or deposited in
respect of lands situate in Ireland:

The expression "turnpike road" shall, when applied to "Turnpike
any road in Ireland, include any road upon which her road," Ire-
Majesty's mails are or shall be carried in mail car- land.
riages; or such other roads as the commissioners of
public works in Ireland shall consider to require
arches of greater width or height than by this act is
required for public carriage roads:

The expression "surveyor," applied to a road or high- "Surveyor,"
way, shall, as to railways in Ireland, include the Ireland.
county surveyor:

The expression "overseers of the poor," when applied to "Overseers
Ireland, shall include the poor law guardians of the of the poor,"
electoral division and the clerk of the guardians of Ireland.
the union through which such railway may pass.

4. And be it enacted, That in citing this act in other Short title
acts of parliament, and in legal instruments, it shall be of this act.
sufficient to use the expression "The Railways' Clauses
Consolidation Act, 1845."

5. And whereas it may be convenient, in some cases, Form in
to incorporate with acts hereafter to be passed some por- which por-
tion only of the provisions of this act; be it therefore tions of this
enacted, That, for the purpose of making any such incor- act may be
poration, it shall be sufficient in any such act to enact that incorpo-
the clauses of this act with respect to the matter so pro- rated in
posed to be incorporated (describing such matter as it is other acts.
described in this act, in the words introductory to the
enactment with respect to such matter) shall be incorpo-
rated with such act, and thereupon all the clauses and
provisions of this act with respect to the matter so incor-
porated shall, save so far as they shall be expressly varied
or excepted by such act, form part of such act, and such
act shall be construed as if the substance of such clauses
and provisions were set forth therein with reference to the
matter to which such act shall relate.

And with respect to the construction of the railway and *Construc-*
the works connected therewith, be it enacted as follows: *tion of*
railway.

6. In exercising the power given to the company by *Power*
the special act to construct the railway, and to take lands given by
for that purpose, the company shall be subject to the pro- special act
visions and restrictions contained in this act and in the to construct
said Lands' Clauses Consolidation Act; and the company railway and
shall make to the owners and occupiers of and all other take lands,
parties interested in any lands taken or used for the pur-

to be subject to the provisions of this act, and the Lands' Clauses Consolidation Act.

poses of the railway, or injuriously affected by the construction thereof, full compensation for the value of the lands so taken or used, and for all damage sustained by such owners, occupiers, and other parties, by reason of the exercise, as regards such lands, of the powers by this or the special act, or any act incorporated therewith, vested in the company; and, except where otherwise provided by this or the special act, the amount of such compensation shall be ascertained and determined in the manner provided by the said Lands' Clauses Consolidation Act for determining questions of compensation with regard to lands purchased or taken under the provisions thereof, and all the provisions of the said last-mentioned act shall be applicable to determining the amount of any such compensation, and to enforcing the payment or other satisfaction thereof.

Errors and omissions in plans &c. mentioned in special act may be corrected by two justices.

Certificate of justices to state particulars of such omission and to be deposited with clerks of the peace, parish clerks, and postmasters.

7. If any omission, mis-statement, or erroneous description shall have been made of any lands, or of the owners, lessees, or occupiers of any lands, described on the plans or books of reference mentioned in the special act, or in the schedule to the special act, it shall be lawful for the company, after giving ten days' notice to the owners of the lands affected by such proposed correction, to apply to two justices for the correction thereof; and if it shall appear to such justices that such omission, mis-statement, or erroneous description arose from mistake, they shall certify the same accordingly, and they shall in such certificate state the particulars of any such omission, and in what respect any such matter shall have been mis-stated or erroneously described; and such certificate shall be deposited with the clerks of the peace of the several counties in which the lands affected thereby shall be situate, and shall also be deposited with the parish clerks of the several parishes in England, and with the postmasters of the post towns in or nearest to such parishes in Ireland, in which the lands affected thereby shall be situate; and such certificate shall be kept by such clerks of the peace, parish clerks, and postmasters respectively along with the other documents to which they relate; and thereupon such plan, book of reference, or schedule shall be deemed to be corrected according to such certificate; and it shall be lawful for the company to make the works in accordance with such certificate.

Works not to be proceeded with until plans of all alterations authorized by

8. It shall not be lawful for the company to proceed in the execution of the railway unless they shall have previously to the commencement of such work deposited with the clerks of the peace of the several counties in or through which the railway is intended to pass a plan and section of all such alterations from the original plan and section as

shall have been approved of by parliament, on the same parliament scale and containing the same particulars as the original have been plan and section of the railway, and shall also have deposited deposited with the clerks of the several parishes in England, and the postmasters of the post towns in or nearest to such parishes in Ireland, in or through which such alterations shall have been authorized to be made, copies or extracts of or from such plans and sections as shall relate to such parishes respectively.

9. The said clerks of the peace, parish clerks, and postmasters shall receive the said plans and sections of alterations, and copies and extracts thereof respectively, and shall retain the same, as well as the said original plans and sections, and shall permit all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of the original plans and sections by an act passed in the first year of the reign of her present Majesty, intituled "An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament." Clerks of the peace &c. to receive plans of alterations, and allow inspection. 7 W. IV. & 1 Vict. c. 83. s. 3.

10. True copies of the said plans and books of reference, or of any alteration or correction thereof, or extract therefrom, certified by any such clerk of the peace, which certificate such clerk of the peace shall give to all parties interested, when required, shall be received in all courts of justice or elsewhere, as evidence of the contents thereof. Copies of plans &c. or of alterations to be evidence.

11. In making the railway it shall not be lawful for the company to deviate from the levels of the railway, as referred to the common datum line described in the section approved of by parliament and as marked on the same, to any extent exceeding in any place five feet, or, in passing through a town, village, street, or land continuously built upon, two feet, without the previous consent in writing of the owners and occupiers of the land in which such deviation is intended to be made; or in case any street or public highway shall be affected by such deviation, then the same shall not be made without the like consent of the trustees or commissioners having the control of such street or public highway, or, if there be no such trustees or commissioners, without the like consent of two or more justices of the peace in petty sessions assembled for that purpose, and acting for the district in which such street or public highway may be situated, or without the like consent of the commissioners of any public sewers, or the proprietors of any canal, navigation, gas works, or water Company not to deviate from levels described in section more than five feet, or in towns &c. two feet, without consent of owners, &c.

Company may lower embankments or viaducts.

Notice of petty sessions for obtaining consent of justices.

Public notice to be given previous to making greater deviations.

Owners of adjoining lands may appeal to the Board of Trade against such deviations.

Viaducts, tunnels, &c. to be made as marked on deposited plans.

Limiting

works affected by such deviation : provided always, that it shall be lawful for the company to deviate from the said levels to a further extent without such consent as aforesaid, by lowering solid embankments or viaducts, provided that the requisite height of headway as prescribed by act of parliament be left for roads, streets, or canals passing under the same : provided also, that notice of every petty sessions to be holden for the purpose of obtaining such consent of two justices as is hereinbefore required shall, fourteen days previous to the holding of such petty sessions, be given in some newspaper circulating in the county, and also be affixed upon the door of the parish church in which such deviation or alteration is intended to be made, or, if there be no church, some other place to which notices are usually affixed.

12. Before it shall be lawful for the company to make any greater deviation from the level than five feet, or, in any town, village, street, or land continuously built upon, two feet, after having obtained such consent as aforesaid, it shall be incumbent on the company to give notice of such intended deviation by public advertisement, inserted once at least in two newspapers, or twice at least in one newspaper, circulating in the district or neighbourhood where such deviation is intended to be made, three weeks at least before commencing to make such deviation ; and it shall be lawful for the owner of any lands prejudicially affected thereby, at any time before the commencement of the making of such deviation, to apply to the Board of Trade, after giving ten days' notice to the company, to decide whether, having regard to the interests of such applicants, such proposed deviation is proper to be made ; and it shall be lawful for the Board of Trade, if they think fit, to decide such question accordingly, and by their certificate in writing either to disallow the making of such deviation or to authorize the making thereof, either simply or with any such modification as shall seem proper to the Board of Trade : and after any such certificate shall have been given by the Board of Trade it shall not be lawful for the company to make such deviation, except in conformity with such certificate.

13. Where in any place it is intended to carry the railway on an arch or arches or other viaduct, as marked on the said plan or section, the same shall be made accordingly ; and where a tunnel is marked on the said plan or section as intended to be made at any place, the same shall be made accordingly, unless the owners, lessees, and occupiers of the land in which such tunnel is intended to be made shall consent that the same shall not be so made.

14. It shall not be lawful for the company to deviate

from or alter the gradients, curves, tunnels, or other engineering works described in the said plan or section, except within the following limits, and under the following conditions; (that is to say,) deviations from works in plan.

Subject to the above provisions in regard to altering levels, it shall be lawful for the company to diminish the inclination or gradients of the railway to any extent, and to increase the said inclination or gradients as follows: (that is to say,) in gradients of an inclination not exceeding one in a hundred, to any extent not exceeding ten feet per mile, or to any further extent which shall be certified by the Board of Trade to be consistent with the public safety, and not prejudicial to the public interest; and in gradients of or exceeding the inclination of one in a hundred, to any extent not exceeding three feet per mile, or to any further extent which shall be so certified by the Board of Trade as aforesaid: Inclination or gradients of railway.

It shall be lawful for the company to diminish the radius of any curve described in the said plan to any extent which shall leave a radius of not less than half a mile, or to any further extent authorized by such certificate as aforesaid from the Board of Trade: Radius of curves.

It shall be lawful for the company to make a tunnel, not marked on the said plan or section, instead of a cutting, or a viaduct instead of a solid embankment, if authorized by such certificate as aforesaid from the Board of Trade: Tunnels and viaducts.

15. It shall be lawful for the company to deviate from the line delineated on the plans so deposited, provided that no such deviation shall extend to a greater distance than the limits of deviation delineated upon the said plans, nor to a greater extent in passing through a town, village, or lands continuously built upon than ten yards, or elsewhere to a greater extent than one hundred yards from the said line, and that the railway by means of such deviation be not made to extend into the lands of any person, whether owner, lessee, or occupier, whose name is not mentioned in the books of reference, without the previous consent in writing of such person, unless the name of such person shall have been omitted by mistake, and the fact that such omission proceeded from mistake shall have been certified in manner herein or in the special act provided for in cases of unintentional errors in the said books of reference: Limits of deviation from line marked on plans. Deviation not to extend into lands of persons not mentioned in book of reference.

16. Subject to the provisions and restrictions in this Company and the special act, and any act incorporated therewith, it shall be lawful for the company, for the purpose of constructing the railway, or the accommodation works con- Company may execute works.

nected therewith, hereinafter mentioned, to execute any of the following works ; (that is to say,)

Construct
inclined
planes &c.

They may make or construct, in, upon, across, under, or over any lands, or any streets, hills, valleys, roads, railroads, or tram roads, rivers, canals, brooks, streams, or other waters, within the lands described in the said plans, or mentioned in the said books of reference or any correction thereof, such temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, cuttings, and fences as they think proper ;

Alter course
of rivers &c.

They may alter the course of any rivers not navigable, brooks, streams, or watercourses, and of any branches of navigable rivers, such branches not being themselves navigable, within such lands, for the purpose of constructing and maintaining tunnels, bridges, passages, or other works over or under the same, and divert or alter, as well temporarily as permanently, the course of any such rivers or streams of water, roads, streets, or ways, or raise or sink the level of any such rivers or streams, roads, streets, or ways, in order the more conveniently to carry the same over or under or by the side of the railway, as they may think proper ;

Make
drains &c.

They may make drains or conduits into, through, or under any lands adjoining the railway, for the purpose of conveying water from or to the railway ;

Erect ware-
houses &c.

They may erect and construct such houses, warehouses, offices, and other buildings, yards, stations, wharfs, engines, machinery, apparatus, and other works and conveniences as they think proper ;

Alter and
repair
works.

They may, from time to time alter, repair, or discontinue the beforementioned works or any of them, and substitute others in their stead ; and

And do
other acts.

They may do all other acts necessary for making, maintaining, altering, or repairing, and using the railway :

Company to
do as little
damage as
can be, and
give com-
pensation.

Provided always, that in the exercise of the powers by this or the special act granted the company shall do as little damage as can be, and shall make full satisfaction in manner herein and in the special act, and any act incorporated therewith, provided, to all parties interested, for all damage by them sustained by reason of the exercise of such powers.

Company
not to con-
struct
works be-
low high-

17. It shall not be lawful for the company to construct on the shore of the sea, or of any creek, bay, arm of the sea, or navigable river communicating therewith, where and so far up the same as the tide flows and reflows, any work, or to construct any railway or bridge across any

creek, bay, arm of the sea, or navigable river, where and water mark so far up the same as the tide flows and reflows, without the previous consent of her Majesty, her heirs and successors, to be signified in writing under the hands of two of the commissioners of her Majesty's woods, forests, land revenues, works, and buildings, and of the lord high admiral of the united kingdom of Great Britain and Ireland, or the commissioners for executing the office of lord high admiral aforesaid for the time being, to be signified in writing under the hand of the secretary of the Admiralty, and then only according to such plan and under such restrictions and regulations as the said commissioners of her Majesty's woods, forests, land revenues, works, and buildings, and the said lord high admiral, or the said commissioners, may approve of, such approval being signified as last aforesaid; and where any such work, railway, or bridge shall have been constructed it shall not be lawful for the company at any time to alter or extend the same without obtaining, previously to making any such alteration or extension, the like consents or approvals; and if any such work, railway, or bridge shall be commenced or completed contrary to the provisions of this act, it shall be lawful for the said commissioners of her Majesty's woods, forests, land revenues, works, and buildings, or the said lord high admiral, or the said commissioners for executing the office of lord high admiral, to abate and remove the same, and to restore the site thereof to its former condition, at the cost and charge of the company; and the amount thereof may be recovered in the same manner as a penalty is recoverable against the company.

without
consent of
commis-
sioners of
woods, and
lords of the
Admiralty.

Works not
to be alter-
ed without
like con-
sent.

18. It shall be lawful for the company, for the purpose of constructing the railway, to raise, sink, or otherwise alter the position of any of the watercourses, water pipes, or gas pipes belonging to any of the houses adjoining or near to the railway, and also the mains and other pipes laid down by any company or society who may furnish the inhabitants of such houses or places with water or gas, and also to remove all other obstructions to such construction, so as the same respectively be done with as little detriment and inconvenience to such company, society, or inhabitants as the circumstances will admit, and be done under the superintendence of the company to which such water pipes or gas pipes belong, and of the several commissioners or trustees, or persons having control of the pavements, sewers, roads, streets, highways, lanes, and other public passages and places within the parish or district where such mains, pipes, or obstructions shall be situate, or of their surveyor, if they or he think fit to attend, after receiving not less than forty-eight hours' notice for that purpose.

Company
may alter
position of
water and
gas pipes
&c.

under su-
perinten-
dence of
water or
gas com-
pany.

Notice.

Company not to disturb pipes until they have laid down others for continuing the supply of water or gas.

19. Provided always, that it shall not be lawful for the company to remove or displace any of the mains or pipes (other than private service pipes), syphons, plugs, or other works belonging to any such company or society, or to do anything to impede the passage of water or gas into or through such mains or pipes, until good and sufficient mains or pipes, syphons, plugs, and all other works necessary or proper for continuing the supply of water or gas as sufficiently as the same was supplied by the mains or pipes proposed to be removed or displaced, shall, at the expense of the company, have been first made and laid down in lieu thereof, and be ready for use, in a position as little varying from that of the pipes or mains proposed to be removed or displaced as may be consistent with the construction of the railway, and to the satisfaction of the surveyor or engineer of such water or gas company or society, or, in case of disagreement between such surveyor or engineer and the company, as a justice shall direct.

Pipes not to be laid contrary to acts, and 18 inches surface to be retained.

20. It shall not be lawful for the company to lay down any such pipes contrary to the regulations of any act of Parliament relating to such water or gas company or society, or to cause any road to be lowered for the purposes of the railway, without leaving a covering of not less than eighteen inches from the surface of the road over such mains or pipes.

Company to make good all damage done to property of water or gas company.

21. The company shall make good all damage done to the property of the water or gas company or society, by the disturbance thereof, and shall make full compensation to all parties for any loss or damage which they may sustain by reason of any interference with the mains, pipes, or works of such water or gas company or society, or with the private service pipes of any person supplied by them with water.

When railway crosses pipes, company to make a culvert.

22. If it shall be necessary to construct the railway or any of the works over any mains or pipes of any such water or gas company or society, the company shall, at their own expense, construct and maintain a good and sufficient culvert over such main or pipe, so as to leave the same accessible for the purpose of repairs.

If company obstruct supply of water or gas to forfeit 20*l.* per day.

23. If by any such operations as aforesaid the company shall interrupt the supply of any water or gas they shall forfeit twenty pounds for every day that such supply shall be so interrupted, and such penalty shall be appropriated to the benefit of the poor of the parish in which such obstruction shall occur, in such manner as the overseers of the poor of the parish shall direct.

Persons obstructing construc-

24. If any person wilfully obstruct any person acting under the authority of the company in the lawful exercise of their power, in setting out the line of the railway, or

pull up or remove any poles or stakes driven into the ground for the purpose of so setting out the line of the railway, or deface or destroy any marks made for the same purpose, he shall forfeit a sum not exceeding five pounds for every such offence. tion of rail-
way liable
to penalty
of 5*l.*

And whereas there are large tracts of land in Ireland subject to flood and injury by water, and the rivers, streams, and watercourses are in many places obstructed by shoals, insufficient bridges, culverts, weirs, and other works, whereby the waters thereof are elevated above their natural level: and whereas an act of parliament was passed in the second year of the reign of his late Majesty King William the Fourth, intituled, "An Act to empower Landed Proprietors in Ireland to sink, embank, and remove Obstructions in Rivers:" and whereas another act was passed in the sixth year of the reign of her present Majesty, intituled, "An Act to promote the Drainage of Lands, and improvement of Navigation and Water-power in connexion with such Drainage, in Ireland;" and by the said last-mentioned act public commissioners were appointed to carry the said last-recited act into execution: and whereas it is essential, for carrying into effect the purposes of the said acts, and for the improvement of agriculture, that ample provision be made in all railway works in Ireland for the free and uninterrupted passage of the waters at such level as will be sufficient not only for the present but all future discharge of the waters from lands crossed by or being on either side of such works, and that the bridges of railways crossing all watercourses, rivers, lakes, or estuaries which are or hereafter may be made navigable shall be so constructed as to admit of the commodious navigation of the same: therefore, with respect to the provision to be made for the drainage of land in Ireland which may be crossed by the railway, and for the protection of the navigation connected therewith, be it enacted as follows:

25. If the special act shall authorize the construction of a railway in Ireland, the company shall and they are hereby required, from time to time, before proceeding to construct any portion of the railway, to submit to the commissioners acting in execution of the said act of the sixth year of her present Majesty, or any act amending the same, such plans, sections, and surveys as shall be necessary to enable the said commissioners to decide upon the number and adequacy of the waterways of all bridges, culverts, tunnels, watercourses, and other works across the line of such portion as aforesaid of the railway, for the free and uninterrupted discharge of the waters from all lands crossed by or lying on either side of or near the

*Drainage
of lands
in Ire-
land.*

1 & 2 W.
IV. c. 57.

5 & 6 Vict.
c. 89.

The com-
pany from
time to
time to sub-
mit to the
drainage
commis-
sioners in
Ireland
plans &c.
of the rail-
way.

*Drainage
of lands in
Ireland.*

Such com-
missioners
to investi-
gate and re-
port on the
works ne-
cessary for
drainage

Works not
to be pro-
ceeded with
until certi-
ficate ob-
tained.

Drainage
commis-
sioners may
make sum-
mary appli-
cation to
the Court of
Chancery
to enforce
the execu-
tion of such
works.

Powers of

railway, at such level as shall in the opinion of the said commissioners be sufficient for the present and prospective drainage and improvement of such lands, and (in cases of rivers, lakes, estuaries, or watercourses, which are now or may be capable of being made navigable) upon the height and adequacy of all bridges and works crossing the same, for the commodious navigation thereof.

26. The said commissioners shall and they are hereby required, without any unnecessary delay, to investigate, by such means as to them shall seem fit, the adequacy of all such works for such purposes as aforesaid, and to decide and certify, by a writing under their hands, or the hands of any two of them, the number, situation, and least possible dimensions as to breadth, depth, and height of the several openings of such bridges, culverts, tunnels, or other works connected with such portion of the railway as aforesaid, which shall be necessary for the passage of water, or for navigation under or across such railway; and it shall not be lawful for the company to proceed with the execution of any of the works connected with any portion of the railway without having first obtained such a certificate as aforesaid respecting such portion of the railway, under the hands of the said commissioners or any two of them, as aforesaid; nor shall the company be at liberty to deviate from such certificate in respect to such works, nor to execute the same otherwise than in conformity therewith, without the previous approbation in writing of the said commissioners.

27. It shall be lawful for the said commissioners to apply by petition in a summary way to the Court of Chancery, complaining of any omission on the part of the company to submit such plans, sections, and surveys to the said commissioners as aforesaid, or of the omission to construct any such bridge, culvert, tunnel, or other works for the passage of water, in such manner as shall be so certified by the said commissioners, and thereupon it shall be lawful for the said court to direct such works to be made or constructed by the company in such manner as shall be conformable to the certificate of the said commissioners, and to the said court shall seem necessary or proper, and to make from time to time such further or other order for restraining the company or any other persons from proceeding with any of the works connected with such portion of railway, except in conformity with the certificate of the said commissioners, and to issue any writ of injunction for the purpose aforesaid; and such court shall have power to award costs to be paid by such company or persons.

28. Nothing in this or the special act shall extend or be

construed to prejudice or affect the powers or authorities of the commissioners acting in execution of the said act of the sixth year of her present Majesty, but all such powers shall be in full force as to the formation of any cut, river, or watercourse across the railway, but such powers shall not be exercised so as to prevent or obstruct the working or using of the railway.

29. And whereas it is expedient to encourage the establishment of manufactories to be worked by water power in Ireland; be it therefore enacted, That whenever it may be requisite for the formation of a watercourse for manufacturing purposes to construct an arch, culvert, tunnel, or watercourse beneath or an aqueduct above any railway in Ireland, and that differences shall have arisen between the directors of such railway and the person interested in obtaining the water power, either as to the manner in which such works shall be executed, or the amount of compensation which should be paid, it shall be lawful to refer the questions in issue to the commissioners acting under the said recited act of the fifth and sixth years of the reign of her Majesty Queen Victoria, and their decision thereon shall be final and conclusive; and if the said commissioners shall be of opinion that the proposed works can be executed without injury to the railway, and if they shall think proper so to do, they may undertake the execution of so much of the said works as shall be in connexion with such railway, at the expense of the parties for whose benefit the watercourse shall be made, with the same powers and authorities as are given by the said act for the execution of any works for drainage.

And with respect to the temporary occupation of lands near the railway during the construction thereof, be it enacted as follows :

30. Subject to the provisions herein and in the special act contained, it shall be lawful for the company, at any time before the expiration of the period by the special act limited for the completion of the railway, to enter upon and use any existing private road, being a road gravelled or formed with stones or other hard materials, and not being an avenue or a planted or ornamental road, or an approach to any mansion house, within the prescribed limits, if any, or, if no limits be prescribed, not being more than five hundred yards distant from the centre of the railway as delineated on the plans; but before the company shall enter upon or use any such existing road they shall give three weeks' notice of their intention to the owners and occupiers of such road, and of the lands over which the same shall pass, and shall in such notice state the time during which, and the purposes for which,

The drainage commissioners in Ireland may decide questions as to the execution of works, or execute works for carrying water-courses across the railway.

Temporary use of lands.

Company may occupy temporarily private roads within five hundred yards of the railway.

Notice to owners.

Compensation.

they intend to occupy such road, and shall pay to the owners and occupiers of such road, and of the lands through which the same shall pass, such compensation for the use and occupation of such road, either in a gross sum of money or by half-yearly instalments, as shall be agreed upon between such owners and occupiers respectively and the company, or in case they differ about the compensation the same shall be settled by two justices in the same manner as any compensation not exceeding fifty pounds is directed to be settled by the said Lands' Clauses Consolidation act.

Owners and occupiers of roads and lands may object that other roads should be taken.

31. It shall be lawful for the owners and occupiers of any such road, and of the lands over which the same passes, within ten days after the service of the aforesaid notice, by notice in writing to the company to object to the company making use of such road, on the ground that other roads, such as the company are hereinbefore authorized to use for the purposes aforesaid, or that some public road, would be more fitting to be used for the same; and upon the objection being so made such proceedings may be had as are hereinafter mentioned with respect to lands temporarily occupied by the company, in respect of which three weeks' notice is hereinafter required to be given, and in the same manner as if in the provisions relative to such proceedings the word road or roads, or the words road and the land over which the same passes, as the case may require, had been substituted in such provisions for the word lands.

Company may take temporary possession of land for certain purposes without previous payment of price.

32. Subject to the provisions herein and in the special act contained, it shall be lawful for the company, at any time before the expiration of the period by the special act limited for the completion of the railway, without making any previous payment, tender, or deposit, to enter upon any lands within the prescribed limits, or, if no limits be prescribed, not being more than two hundred yards distant from the centre of the railway as delineated on the plans, and not being a garden, orchard, or plantation attached or belonging to a house, nor a park, planted walk, avenue, or ground ornamentally planted, and not being nearer to the mansion-house of the owner of any such lands than the prescribed distance, or if no distance be prescribed, then not nearer than five hundred yards therefrom, and to occupy the said lands so long as may be necessary for the construction or repair of that portion of the railway, or of the accommodation works connected therewith, hereinafter mentioned, and to use the same for any of the following purposes; (that is to say,)

For the purpose of taking earth or soil by side cuttings therefrom;

For the purpose of depositing spoil thereon ;

For the purpose of obtaining materials therefrom for the construction or repair of the railway or such accommodation works as aforesaid ; or

For the purpose of forming roads thereon to or from or by the side of the railway :

Temporary use of lands.

And in exercise of the powers aforesaid it shall be lawful for the company to deposit and also to manufacture and work upon such lands materials of every kind used in constructing the railway, and also to dig and take from out of any such lands any clay, stone, gravel, sand, or other things that may be found therein useful or proper for constructing the railway or any such roads as aforesaid, and for the purposes aforesaid to erect thereon workshops, sheds, and other buildings of a temporary nature : provided always, that nothing in this act contained shall exempt the company from an action for nuisance or other injury, if any done, in the exercise of the powers hereinbefore given, to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid : provided also, that no stone or slate quarry, brick field, or other like place, which at the time of the passing of the special act shall be commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same, shall be taken or used by the company, either wholly or in part, for any of the purposes lastly hereinbefore mentioned.

Company liable to action for nuisance.

No quarry or brick field to be taken.

33. In case any such lands shall be required for spoil banks or for side cuttings, or for obtaining materials for the construction or repair of the railway, the company shall before entering thereon (except in the case of accident to the railway requiring immediate reparation) give three weeks' notice in writing to the owners and occupiers of such lands of their intention to enter upon the same for such purposes ; and in case the said lands are required for any of the other purposes hereinbefore mentioned the company shall (except in the cases aforesaid) give ten days' like notice thereof, and the company shall in such notices respectively state the substance of the provisions hereinafter contained respecting the right of such owner or occupier to require the company to purchase any such lands, or to receive compensation for the temporary occupation thereof, as the case may be.

Company to give notice to owners and occupiers previous to taking such temporary possession.

34. The said notice shall either be served personally on such owners and occupiers, or left at their last usual place of abode, if any such can, after diligent inquiry, be found, and in case any such owner shall be absent from the United Kingdom, or cannot be found after diligent inquiry, shall also be left with the occupier of such lands,

Service of notices on owners and occupiers of lands.

or, if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

Owner may object that other lands ought to be taken.

35. In any case in which a notice of three weeks is hereinbefore required to be given it shall be lawful for the owner or occupier of the lands therein referred to, within ten days after the service of such notice, by notice in writing to the company to object to the company making use of such lands, either on the ground that the lands proposed to be taken for the purposes aforesaid, or some part thereof, or of the materials contained therein, are essential to be retained by such owner, in order to the beneficial enjoyment of other neighbouring lands belonging to him, or on the ground that other lands lying contiguous or near to those proposed to be taken would be more fitting to be used for such purposes by the company; and upon objection being so made such proceedings may be had as hereinafter mentioned.

Owner may summon company before two justices.

36. If the objection so made be on the ground that the lands proposed to be taken, or some part thereof, or of the materials contained therein, are essential to be retained by the owner in order to the beneficial enjoyment of other neighbouring lands belonging to him, it shall be lawful for any justice, on the application of such owner, to summon the company to appear before two justices at a time and place to be named in the summons, such time not being later than the expiration of the said twenty-one days' notice; and on the appearance of the company, or, in their absence, upon proof of due service of the summons, it shall be lawful for such justices to inquire into the truth of such ground of objection; and if it appear to such justices that for some special reason, to be stated in the order after mentioned, the lands so proposed to be taken, or any part thereof, or of the materials contained therein, are essential to be retained by the owner of such lands in order to the beneficial enjoyment of other neighbouring lands belonging to him, and ought not therefore to be taken or used by the company, it shall be lawful for such justices, by writing under their hands, to order that the lands so proposed to be taken, or some part thereof, or of the materials contained therein, to be specified in such order, shall not be taken or used by the company, and after service of such order on the company it shall not be lawful for them to take or use, without the previous consent in writing of the owner thereof, any of the lands or materials which by such order they are ordered not to take or use.

Upon appearance or proof of service justices to inquire into grounds of objection,

and may order that the lands and materials shall not be taken.

If owners object that other lands

37. If the objection so made as aforesaid be on the ground that other lands lying contiguous to those proposed to be taken, and being sufficient in quantity, and such as

the company are hereinbefore authorized to use for the purposes aforesaid, would be more fitting to be used by the company, and if in such case the company shall refuse to occupy such other lands in lieu of those mentioned in the notice, it shall be lawful for any justice, on the application of such owner or occupier, to summon the company and the owners and occupiers of such other lands to appear before two justices at a time and place to be named in such summons, such time not being more than fourteen days after such application nor less than seven days from the service of such summons; and on the appearance of the parties, or, in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such justices to determine summarily which of the said lands shall be used by the company for the purposes aforesaid, and to authorize the company to occupy and use the same accordingly.

ought to be taken justices may summon company and owners of such lands, and determine which lands shall be taken.

38. If in the case last mentioned it shall appear to such justices, upon the inquiry before them, that the lands of any other party not summoned before them, being sufficient in quantity, and such as the company are hereinbefore authorized to take or use for the purposes aforesaid, would be more fitting to be used by the company than the lands of the person who shall have been so summoned as aforesaid, it shall be lawful for the said justices to adjourn such inquiry, and to summon such other person to appear before them at any time, not being more than fourteen days from such inquiry nor less than seven days from the service of such summons; and on the appearance of the parties, or, in the absence of any of them, on proof of due service of the summons, it shall be lawful for such justices to determine finally which lands shall be used for the purposes aforesaid, and to authorize the company to occupy and use the same accordingly.

Justices may adjourn the inquiry, and summon other owners before them, and determine finally which lands shall be used.

39. Before entering, under the provisions hereinbefore contained, upon any such lands as shall be required for spoil banks or for side cuttings, or for obtaining materials or forming roads as aforesaid, the company shall, if required by the owner or occupier thereof, seven days at least before the expiration of the notice to take such lands as hereinbefore mentioned, find two sufficient persons, to be approved of by a justice, in case the parties differ, who shall enter into a bond to such owner or occupier in a penalty of such amount as shall be approved of by such justice, in case the parties differ, conditioned for the payment of such compensation as may become payable in respect of the same in manner herein mentioned.

Company before entering upon lands to give sureties if required for payment of compensation.

40. Before the company shall use any such lands for any of the purposes aforesaid, they shall, if required so to

Company before

using such lands to separate them from adjoining lands and put up fences and gates.

do by the owner or occupier thereof, separate the same by a sufficient fence from the lands adjoining thereto, with such gates as may be required by the said owner or occupier for the convenient occupation of such lands, and shall also, to all private roads used by them as aforesaid, put up fences and gates in like manner, in all cases where the same may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads, and in case of any difference between the owners or occupiers of such roads and lands and the company as to the necessity for such fences and gates, such fences and gates as any two magistrates shall deem necessary for the purposes aforesaid, on application being made to them in like manner as hereinbefore is provided in respect to the use of such roads.

Lands taken for getting materials &c. to be worked as the surveyor of owner may direct.

41. That if any land shall be taken or used by the company, under the provisions of this or the special act, for the purpose of getting materials therefrom for the construction or repair of the railway, or the accommodation works connected therewith, they shall work the same in such manner as the surveyor or agent of the owner of such land shall direct, or, in case of disagreement between such surveyor or agent and the company, in such manner as any justice shall direct, on the application of either party, after notice of the hearing the application shall have been given to the other party.

Owners of lands may compel company to purchase lands so temporarily occupied.

42. In all cases in which the company shall in exercise of the powers aforesaid enter upon any lands for the purpose of making spoil banks or side cuttings thereon, or for obtaining therefrom materials for the construction or repair of the railway, it shall be lawful for the owners or occupiers of such lands, or parties having such estates or interests therein as, under the provisions in the said Lands' Clauses Consolidation Act mentioned, would enable them to sell or convey lands to the company, at any time during the possession of any such lands by the company, and before such owners or occupiers shall have accepted compensation from the company in respect of such temporary occupation, to serve a notice in writing on the company, requiring them to purchase the said lands, or the estate and interests therein capable of being sold and conveyed by them respectively; and in such notice such owners or occupiers shall set forth the particulars of such their estate or interest in such lands, and the amount of their claim in respect thereof; and the company shall thereupon be bound to purchase the said lands, or the estate and interest therein capable of being sold and conveyed by the parties serving such notice.

Company

43. In any of the cases aforesaid, where the company

shall not be required to purchase such lands, and in all other cases where they shall take temporary possession of lands by virtue of the powers herein or in the special act granted, it shall be incumbent on the company, within one month after their entry upon such lands, upon being required so to do, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of their so taking possession of his lands, and shall also from time to time during their occupation of the said lands pay half-yearly to such occupier, or to the owner of the lands, as the case may require, a rent to be fixed by two justices, in case the parties differ, and shall also within six months after they shall have ceased to occupy the said lands, and not later than six months after the expiration of the time by the special act limited for the completion of the railway, pay to such owner and occupier, or deposit in the bank for the benefit of all parties interested, as the case may require, compensation for all permanent or other loss, damage, or injury that may have been sustained by them by reason of the exercise, as regards the said lands, of the powers herein or in the special act granted, including the full value of all clay, stone, gravel, sand, and other things taken from such lands.

to make compensation for temporary occupation of lands,
and pay a rent to be fixed by two justices,
and full value of all materials taken.

44. The amount and application of the purchase money and other compensation payable by the company in any of the cases aforesaid shall be determined in the manner provided by the said Lands' Clauses Consolidation Act for determining the amount and application of the compensation to be paid for lands taken under the provisions thereof.

Compensation to be ascertained under the 8 Vict.c. 18.

45. And be it enacted, That it shall be lawful for the company, in addition to the lands authorized to be compulsorily taken by them under the powers of this or the special act, to contract with any party willing to sell the same for the purchase of any land adjoining or near to the railway, not exceeding in the whole the prescribed number of acres for extraordinary purposes; (that is to say,)

Lands for additional stations.
—
Company may purchase Land for additional stations &c.

For the purpose of making and providing additional stations, yards, wharfs, and places for the accommodation of passengers, and for receiving, depositing, and loading or unloading goods or cattle to be conveyed upon the railway, and for the erection of weighing machines, toll-houses, offices, warehouses, and other buildings and conveniences:

For the purpose of making convenient roads or ways to the railway, or any other purpose which may be requisite or convenient for the formation or use of the railway.

and for making roads.

Crossing of roads and construction of bridges.

Railway not to cross roads on the level unless otherwise provided by special act. Proviso as to highways.

If railway cross public roads on a level company to erect gates and keep the same closed across such roads.

Board of Trade may order that such gates be kept closed across railway instead of across roads.

Trains not to cross roads adjoining stations at

And with respect to the crossing of roads, or other interference therewith, be it enacted as follows:

46. If the line of the railway cross any turnpike road or public highway, then (except where otherwise provided by the special act) either such road shall be carried over the railway, or the railway shall be carried over such road, by means of a bridge, of the height and width and with the ascent or descent by this or the special act in that behalf provided; and such bridge, with the immediate approaches, and all other necessary works connected therewith, shall be executed and at all times thereafter maintained at the expense of the company: provided always, that, with the consent of two or more justices in petty sessions, as after mentioned, it shall be lawful for the company to carry the railway across any highway, other than a public carriage road, on the level.

47. If the railway cross any turnpike road or public carriage road on a level, the company shall erect and at all times maintain good and sufficient gates across such road, on each side of the railway where the same shall communicate therewith, and shall employ proper persons to open and shut such gates: and such gates shall be kept constantly closed across such road on both sides of the railway, except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross such railway; and such gates shall be of such dimensions and so constructed as when closed to fence in the railway, and prevent cattle or horses passing along the road from entering upon the railway; and the person intrusted with the care of such gates shall cause the same to be closed as soon as such horses, cattle, carts, or carriages shall have passed through the same, under a penalty of forty shillings for every default therein; provided always, that it shall be lawful for the Board of Trade, in any case in which they are satisfied that it will be more conducive to the public safety that the gates on any level crossing over any such road, should be kept closed across the railway, to order that such gates shall be kept so closed, instead of across the road, and in such case such gates shall be kept constantly closed across the railway, except when engines or carriages passing along the railway shall have occasion to cross such road, in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

48. Where the railway crosses any turnpike road on a level adjoining to a station, all trains on the railway shall be made to slacken their speed before arriving at such turnpike road, and shall not cross the same at any greater rate of speed than four miles an hour; and the company

shall be subject to all such rules and regulations with more than regard to such crossings as may from time to time be made four miles by the Board of Trade. an hour.

49. Every bridge to be erected for the purpose of carrying the railway over any road shall (except where otherwise provided by the special act) be built in conformity with the following regulations; (that is to say,) Construction of bridges over roads.

The width of the arch shall be such as to leave there- Width of arch.
under a clear space of not less than thirty-five feet if
the arch be over a turnpike road, and of twenty-five
feet if over a public carriage road, and of twelve feet
if over a private road:

The clear height of the arch from the surface of the Height of arch over public roads.
road shall not be less than sixteen feet for a space of
twelve feet if the arch be over a turnpike road, and
fifteen feet for a space of ten feet if over a public car-
riage road; and in each of such cases the clear height
at the springing of the arch shall not be less than
twelve feet:

The clear height of the arch for a space of nine feet Over private roads.
shall not be less than fourteen feet over a private car-
riage road:

The descent made in the road in order to carry the Descent in roads &c.
same under the bridge shall not be more than one
foot in thirty feet if the bridge be over a turnpike
road, one foot in twenty feet if over a public carriage
road, and one foot in sixteen feet if over a private
carriage road, not being a tramroad or railroad, or if
the same be a tramroad or railroad the descent shall
not be greater than the prescribed rate of inclination,
and if no rate be prescribed the same shall not be
greater than as it existed at the passing of the special
act.

50. Every bridge erected for carrying any road over Construction of bridges over railway.
the railway shall (except as otherwise provided by the
special act) be built in conformity with the following
regulations; (that is to say,) railway.

There shall be a good and sufficient fence on each side Fence.
of the bridge of not less height than four feet, and on
each side of the immediate approaches of such bridge
of not less than three feet.

The road over the bridge shall have a clear space be- Width of road.
tween the fences thereof of thirty-five feet if the road
be a turnpike road, and twenty-five feet if a public
carriage road, and twelve feet if a private road:

The ascent shall not be more than one foot in thirty Ascent of road.
feet if the road be a turnpike road, one foot in twenty
feet if a public carriage road, and one foot in sixteen
feet if a private carriage road, not being a tramroad

Crossing of roads and construction of bridges.

Width of bridges need not exceed the width of roads in certain cases.
If road afterwards widened bridges to be also widened.

or railroad, or if the same be a tramroad or railroad the ascent shall not be greater than the prescribed rate of inclination, and if no rate be prescribed the same shall not be greater than as it existed at the passing of the special act.

51. Provided always, That in all cases where the average available width for the passage of carriages of any existing roads within fifty yards of the points of crossing the same is less than the width hereinbefore prescribed for bridges over or under the railway, the width of such bridges need not be greater than such average available width of such roads, but so nevertheless that such bridges be not of less width, in the case of a turnpike road or public carriage road, than twenty feet: provided also, that if at any time after the construction of the railway the average available width of any such road shall be increased beyond the width of such bridge on either side thereof, the company shall be bound, at their own expense, to increase the width of the said bridge to such extent as they may be required by the trustees or surveyors of such road, not exceeding the width of such road as so widened, or the maximum width herein or in the special act prescribed for a bridge in the like case over or under the railway.

Existing inclinations of roads crossed or diverted need not be improved.

52. Provided also, That if the mesne inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may require to be altered, or for which another road shall be substituted, shall be steeper than the inclination hereinbefore required to be preserved by the company, then the company may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the said mesne inclination of the road so to be crossed, or of the road so requiring to be altered, or for which another road shall be substituted.

Before roads interfered with, others to be substituted.

53. If, in the exercise of the powers by this or the special act granted, it be found necessary to cross, cut through, raise, sink, or use any part of any road, whether carriage road, horse road, tramroad, or railway, either public or private, so as to render it impassable for or dangerous or extraordinarily inconvenient to passengers or carriages, or to the persons entitled to the use thereof, the company shall, before the commencement of any such operations, cause a sufficient road to be made instead of the road to be interfered with, and shall at their own expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

54. If the company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, they shall forfeit twenty pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted; and such penalty shall be paid to the trustees, commissioners, surveyor, or other person having the management of such road, if a public road, and shall be applied for the purposes thereof, or in case of a private road the same shall be paid to the owner thereof, and every such penalty shall be recoverable with costs by action in any of the superior courts.

If company do not substitute a road to forfeit 20l. per day.

55. If any party entitled to a right of way over any road so interfered with by the company shall suffer any special damage by reason that the company shall fail to cause another sufficient road to be made before they interfere with the existing road, it shall be lawful for such party to recover the amount of such special damage from the company, with costs, by action on the case in any of the superior courts, and that whether any party shall have sued for such penalty as aforesaid or not, and without prejudice to the right of any party to sue for the same.

Party suffering damage from interruption of road may recover in an action on the case.

56. If the road so interfered with can be restored compatibly with the formation and use of the railway, the same shall be restored to as good a condition as the same was in at the time when the same was first interfered with by the company, or as near thereto as may be; and if such road cannot be restored compatibly with the formation and use of the railway, the company shall cause the new or substituted road, or some other sufficient substituted road, to be put into a permanently substantial condition, equally convenient as the former road, or as near thereto as circumstances will allow; and the former road shall be restored, or the substituted road put into such condition as aforesaid, as the case may be, within the following periods after the first operation on the former road shall have been commenced, unless the trustees or parties having the management of the road to be restored by writing under their hands consent to an extension of the period, and in such case within such extended period; (that is to say,) if the road be a turnpike road, within six months, and if the road be not a turnpike road, within twelve months.

Company to restore roads interfered with, or put substituted road into a permanently substantial condition.

Period for restoration.

57. If any such road be not so restored, or the substituted road so completed as aforesaid, within the periods herein or in the special act fixed for that purpose, the company shall forfeit to the trustees, commissioners, surveyor, or other person having the management of the road interfered with by the company, if a public road, or if a private

If road be not restored or substituted road completed within

period com-
pany to for-
feit 5*l.* per
day.

road to the owner thereof, five pounds for every day after the expiration of such periods respectively during which such road shall not be so restored or the substituted road completed; and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be laid out in executing the work in respect whereof such penalty was incurred.

Company to
repair roads
used by
them.

58. If in the course of making the railway the company shall use or interfere with any road they shall from time to time make good all damage done by them to such road; and if any question shall arise as to the damage done to any such road by the company, or as to the repair thereof by them, such question shall be referred to the determination of two justices; and such justices may direct such repairs to be made in the state of such road, in respect of the damage done by the company, and within such period as they think reasonable, and may impose on the company, for not carrying into effect such repairs, any penalty not exceeding five pounds per day as to such justices shall seem just; and such penalty shall be paid to the surveyor or other person having the management of the road interfered with by the company, if a public road, and be applied for the purposes of such road, or if a private road, the same shall be paid to the owner thereof: provided always, that in determining any such question with regard to a turnpike road, the said justices shall have regard to and shall make full allowance for any tolls that may have been paid by the company on such road in the course of the using thereof.

Justices
may deter-
mine dis-
putes as to
repairs and
impose
penalty of
5*l.* per day.

Allowance
for tolls.

Company to
give notice
of applica-
tion to jus-
tices for
consent to
level cross-
ings of
highways.

59. When the company shall intend to apply for the consent of two justices, as hereinbefore provided, so as to authorize them to carry the railway across any highway other than a public carriage road on the level, they shall, fourteen days at least previous to the holding of the petty sessions at which such application is intended to be made, cause notice of such intended application to be given in some newspaper circulating in the county, and also to be affixed upon the door of the parish church of the parish in which such crossing is intended to be made, or if there be no such church some other place to which notices are usually affixed; and if it appear to any two or more justices acting for the district in which such highway at the proposed crossing thereof is situate, and assembled in petty sessions, after such notice as aforesaid, that the railway can, consistently with a due regard to the public safety and convenience, be carried across such highway on the level, it shall be lawful for such justices to consent that the same may be so carried accordingly.

Justices
may con-
sent that
highways
be crossed
on level.

Parties ag-

60. If either party shall feel aggrieved by the determi-

nation of such justices upon any such application as aforesaid, it shall be lawful for such party, in like manner and subject to the like conditions as are hereinafter provided in the case of appeals in respect of penalties and forfeitures, to appeal to the quarter sessions of the county or place in which the cause of appeal shall have arisen; and it shall be lawful for the justices in such quarter sessions, upon the hearing of such appeal, either to confirm or quash the determination, or to make such other order in regard to the method of carrying the railway across such highway as aforesaid, as to them shall seem fit, and to make such order concerning the costs both of the original application and of the appeal, as to them shall seem reasonable.

Crossing of roads and construction of bridges.

grieved may appeal to quarter sessions against the determination of the justices.

61. If the railway shall cross any highway other than a public carriage way on the level, the company shall at their own expense make and at all times maintain convenient ascents and descents and other convenient approaches, with handrails or other fences, and shall, if such highway be a bridleway, erect and at all times maintain good and sufficient gates, and if the same shall be a footway, good and sufficient gates or stiles, on each side of the railway where the highway shall communicate therewith.

Company to make approaches and fences to bridle ways and footways crossed on the level.

62. If, where the railway shall cross any highway on the level, the company fail to make convenient ascents and descents or other convenient approaches, and such handrails, fence, gates, and stiles as they are hereinbefore required to make, it shall be lawful for two justices, on the application of the surveyor of roads, or of any two householders within the parish or district where such crossing shall be situate, after not less than ten days' notice to the company, to order the company to make such ascent and descent or other approach, or such handrails, fences, gates, or stiles as aforesaid, within a period to be limited for that purpose by such justices; and if the company fail to comply with such order they shall forfeit five pounds for every day that they fail so to do; and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be applied, in such manner and by such person as they think fit, in executing the work in respect whereof such penalty was incurred.

On failure of company justices may order approaches and fences to be made to highways crossing on the level.

Penalty for noncompliance.

63. If the commissioners or trustees of any turnpike road, or the surveyor of any highway, apprehend danger to the passengers on such road in consequence of horses being frightened by the sight of the engines or carriages travelling upon the railway, it shall be lawful for such commissioners, or trustees, or surveyor, after giving fourteen days' notice to the company, to apply to the Board of Trade with respect thereto; and if it shall appear to the

Screens for turnpike roads.

To be made, if required by the Board of Trade.

Screens for turnpike roads. — said board that such danger might be obviated or lessened by the construction of any works in the nature of a screen near to or adjoining the side of such road, it shall be lawful for them, if they shall think fit, to certify the works necessary or proper to be executed by the company for the purpose of obviating or lessening such danger, and by such certificate to require the company to execute such works within a certain time after the service of such certificate, to be appointed by the said board.

*If company fail to construct such screens, to forfeit 5*l.* per day.* 64. Where by any such certificate as aforesaid the company shall have been required to execute any such work in the nature of a screen, they shall execute and complete the same within the period appointed for that purpose in such certificate; and if they fail so to do, they shall forfeit to the said commissioners, or trustees, or surveyor, five pounds for every day during which such works shall remain uncompleted beyond the period so appointed for their completion; and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be laid out in executing the work in respect whereof such penalty was incurred.

Construction of bridges. — 65. Where, under the provisions of this or the special act, or any act incorporated therewith, the company are required to maintain or keep in repair any bridge, fence, approach, gate, or other work executed by them, it shall be lawful for two justices, on the application of the surveyor of roads, or of any two householders of the parish or district where such work may be situate, complaining that any such work is out of repair, after not less than ten days' notice to the company, to order the company to put such work into complete repair within a period to be limited for that purpose by such justices; and if the company fail to comply with such order, they shall forfeit five pounds for every day that they fail so to do; and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be applied, in such manner and by such persons as they think fit, in putting such work into repair.

Disputes as to the construction of certain roads, bridges, &c. may be referred to the Board of Trade. 66. And whereas expense might frequently be avoided, and public convenience promoted, by a reference to the Board of Trade upon the construction of public works of an engineering nature connected with the railway, where a strict compliance with the provisions of this or the special act might be impossible, or attended with inconvenience to the company and without adequate advantage to the public; be it enacted, that in case any difference in regard to the construction, alteration, or restoration of any road or bridge or other public work of an engineering nature, required by the provisions of **this**

or the special act, shall arise between the company and any trustees, commissioners, surveyors, or other persons having the control of or being authorized by law to enforce the construction of such road, bridge, or work, it shall be lawful for either party, after giving fourteen days' notice in writing of their intention so to do to the other party, to apply to the Board of Trade to decide upon the proper manner of constructing, altering, or restoring such road, bridge, or other work; and it shall be lawful for the Board of Trade, if they shall think fit, to decide the same accordingly, and to authorize, by certificate in writing, any arrangement or mode of construction in regard to any such road, bridge, or other work, which shall appear to them either to be in substantial compliance with the provisions of this and the special act, or to be calculated to afford equal or greater accommodation to the public using such road, bridge, or other work; and after any such certificate shall have been given by the Board of Trade, the road, bridge, or other work therein mentioned shall be constructed by the company in conformity with the terms of such certificate, and being so constructed shall be deemed to be constructed in conformity with the provisions of this and the special act: provided always, that no such certificate shall be granted by the Board of Trade unless they shall be satisfied that existing private rights or interests will not be injuriously affected thereby.

Construction of bridges.

Board of Trade may authorize other modes of construction.

Private interests not to be affected.

67. And be it enacted, That all regulations, certificates, notices, and other documents in writing purporting to be made or issued by or by the authority of the Board of Trade, and signed by some officer appointed for that purpose by the Board of Trade, shall for the purposes of this and the special act, and any act incorporated therewith, be deemed to have been so made and issued, and that without proof of the authority of the person signing the same, or of the signature thereto, which matters shall be presumed until the contrary be proved; and service of any such document, by leaving the same at one of the principal offices of the railway company, or by sending the same by post addressed to the secretary at such office, shall be deemed good service upon the company; and all notices and other documents required by this or the special act to be given to or laid before the Board of Trade shall be delivered at, or sent by post addressed to, the office of the Board of Trade in London.

Authentication of certificates of the Board of Trade.

Service of notices on company.

To Board of Trade.

And with respect to works for the accommodation of lands adjoining the railway, be it enacted as follows:

Works for accommodation of lands.

68. The company shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway; (that is to say,)

Gates,
bridges, &c.

Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the railway as shall be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway shall be made; and such works shall be made forthwith after the part of the railway passing over such lands shall have been laid out or formed, or during the formation thereof:

Fences.

Also sufficient posts, rails, hedges, ditches, mounds, or other fences for separating the land taken for the use of the railway from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereout, by reason of the railway, together with all necessary gates made to open towards such adjoining lands, and not towards the railway, and all necessary stiles; and such posts, rails, and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be:

Drains.

Also all necessary arches, tunnels, culverts, drains or other passages, either over or under or by the sides of the railway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be; and such works shall be made from time to time as the railway works proceed:

Watering
places.

Also proper watering places for cattle where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering places; and such watering places shall be so made as to be at all times as sufficiently supplied with water as theretofore, and as if the railway had not been made, or as nearly so as may be; and the company shall make all necessary watercourses and drains for the purpose of conveying water to the said watering places:

Such works
not to ob-
struct
working of
railway.

Provided always, that the company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the railway, nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive, and shall have been paid compensation instead of the making them.

Differences
as to ac-
commoda-

69. If any difference arise respecting the kind or number of any such accommodation works, or the dimensions or sufficiency thereof, or respecting the maintaining

thereof, the same shall be determined by two justices ; and such justices shall also appoint the time within which such works shall be commenced and executed by the company.

70. If for fourteen days next after the time appointed by such justices for the commencement of any such works the company shall fail to commence such works, or having commenced shall fail to proceed diligently to execute the same in a sufficient manner, it shall be lawful for the party aggrieved by such failure himself to execute such works or repairs ; and the reasonable expenses thereof shall be repaid by the company to the party by whom the same shall so have been executed ; and if there be any dispute about such expenses the same shall be settled by two justices : provided always, that no such owner or occupier or other person shall obstruct or injure the railway, or any of the works connected therewith, for a longer time nor use them in any other manner than is unavoidably necessary for the execution or repair of such accommodation works.

71. If any of the owners or occupiers of lands affected by such railway shall consider the accommodation works made by the company, or directed by such justices to be made by the company, insufficient for the commodious use of their respective lands, it shall be lawful for any such owner or occupier, at any time, at his own expense, to make such further works for that purpose as he shall think necessary, and as shall be agreed to by the company, or, in case of difference, as shall be authorized by two justices.

72. If the company so desire, all such last-mentioned accommodation works shall be constructed under the superintendence of their engineer, and according to plans and specifications to be submitted to and approved by such engineer ; nevertheless the company shall not be entitled to require, either that plans should be adopted which would involve a greater expense than that incurred in the execution of similar works by the company, or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the company.

73. The company shall not be compelled to make any further or additional accommodation works for the use of owners and occupiers of land adjoining the railway after the expiration of the prescribed period, or, if no period be prescribed, after five years from the completion of the works and the opening of the railway for public use.

74. Until the company shall have made the bridges or other proper communications which they shall, under the provisions herein, or in the special act, or any act incor-

tion works
to be set-
tled by jus-
tices.

On failure
of company
owners may
execute
such works
at expense
of com-
pany.

Disputes as
to expenses
to be set-
tled by jus-
tices.

Owners
may make
additional
accommo-
dation
works at
their own
expense.

Such works
to be con-
structed
under the
superin-
tendence of
the com-
pany's en-
gineer.

Accommo-
dation
works not
to be requir-
ed after five
years.

Owners to
be allowed
to cross

railway
until ac-
commoda-
tion works
are made.

Proviso.

Persons
omitting to
fasten gates
liable to
forfeit 2*l*.

*Branch
railways.*

Owners
may make
private
branch rail-
ways com-
municating
with the
railway.
5 & 6 Vict.
c. 55, s. 12.

Restric-
tions and
conditions.

porated therewith, contained, have been required to make between lands intersected by the railway, and no longer, the owners and occupiers of such lands, and any other persons whose right of way shall be affected by the want of such communication, and their respective servants, may at all times freely pass and repass, with carriages, horses and other animals, directly (but not otherwise) across the part of the railway made in or through their respective lands, solely for the purpose of occupying the same lands, or for the exercise of such right of way, and so as not to obstruct the passage along the railway, or to damage the same; nevertheless, if the owner or occupier of any such lands have in his arrangements with the company received or agreed to receive compensation for or on account of any such communications, instead of the same being formed, such owner or occupier, or those claiming under him, shall not be entitled so to cross the railway.

75. If any person omit to shut and fasten any gate set up at either side of the railway, for the accommodation of the owners or occupiers of the adjoining lands, as soon as he, and the carriage, cattle or other animals, under his care, have passed through the same, he shall forfeit for every such offence any sum not exceeding forty shillings.

76. And be it enacted, That this or the special act shall not prevent the owners or occupiers of lands adjoining to the railway, or any other persons, from laying down, either upon their own lands or upon the lands of other persons, with the consent of such persons, any collateral branches of railway to communicate with the railway, for the purpose of bringing carriages to or from or upon the railway, but under and subject to the provisions and restrictions of an act passed in the sixth year of the reign of her present Majesty, intituled "An Act for the better Regulation of Railways, and for the Conveyance of Troops;" and the company shall, if required, at the expense of such owners and occupiers and other persons, and subject also to the provisions of the said last-mentioned act, make openings in the rails, and such additional lines of rail as may be necessary for effecting such communication, in places where the communication can be made with safety to the public, and without injury to the railway, and without inconvenience to the traffic thereon; and the company shall not take any rate or toll or other monies for the passing of any passengers, goods, or other things along any branch so to be made by any such owner or occupier or other person; but this enactment shall be subject to the following restrictions and conditions; (that is to say,)

No such branch railway shall run parallel to the railway.

The company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere, nor upon any inclined plane or bridge, nor in any tunnel :

*Branch
railways*
—

The persons making or using such branch railways shall be subject to all bye-laws and regulations of the company from time to time made with respect to passing upon or crossing the railway, and otherwise ; and the persons making or using such branch railways shall be bound to construct, and from time to time, as need may require, to renew, the offset plates and switches according to the most approved plan adopted by the company, and under the direction of their engineer.

And with respect to mines lying under or near the railway, be it enacted as follows :

*Working of
mines.*
—

77. The company shall not be entitled to any mines of coal, ironstone, slate, or other minerals under any land purchased by them, except only such parts thereof as shall be necessary to be dug or carried away or used in the construction of the works, unless the same shall have been expressly purchased ; and all such mines, excepting as aforesaid, shall be deemed to be excepted out of the conveyance of such lands, unless they shall have been expressly named therein and conveyed thereby.

*Company
not to be
entitled to
minerals
unless ex-
pressly pur-
chased.*
—

78. If the owner, lessee, or occupier of any mines or minerals lying under the railway, or any of the works connected therewith, or within the prescribed distance, or, where no distance shall be prescribed, forty yards therefrom, be desirous of working the same, such owner, lessee, or occupier shall give to the company notice in writing of his intention so to do thirty days before the commencement of working ; and upon the receipt of such notice it shall be lawful for the company to cause such mines to be inspected by any person appointed by them for the purpose ; and if it appear to the company that the working of such mines or minerals is likely to damage the works of the railway, and if the company be willing to make compensation for such mines or any part thereof to such owner, lessee, or occupier thereof, then he shall not work or get the same ; and if the company, and such owner, lessee, or occupier, do not agree as to the amount of such compensation, the same shall be settled as in other cases of disputed compensation.

*Owners of
mines lying
near the
railway to
give notice
before
working.*

*Company
may pur-
chase such
mines.*

*Compensa-
tion.*

79. If before the expiration of such thirty days the company do not state their willingness to treat with such owner, lessee, or occupier for the payment of such compensation, it shall be lawful for him to work the said mines

*If company
unwilling to
purchase,
owner may*

work the
mines.

or any part thereof for which the company shall not have agreed to pay compensation, so that the same be done in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the district where the same shall be situate; and if any damage or obstruction be occasioned to the railway or works by improper working of such mines, the same shall be forthwith repaired or removed, as the case may require, and such damage made good, by the owner, lessee, or occupier of such mines or minerals, and at his own expense; and if such repair or removal be not forthwith done, or, if the company shall so think fit, without waiting for the same to be done by such owner, lessee, or occupier, it shall be lawful for the company to execute the same, and recover from such owner, lessee, or occupier the expense occasioned thereby, by action in any of the superior courts.

Damage to
railway by
improper
working of
mines to be
made good
by owners.

If mines
extend on
both sides
of railway
owners
may make
airways and
other com-
munica-
tions.

80. If the working of any such mines under the railway or works, or within the above-mentioned distance therefrom, be prevented as aforesaid by reason of apprehended injury to the railway, it shall be lawful for the respective owners, lessees, and occupiers of such mines, and whose mines shall extend so as to lie on both sides of the railway, to cut and make such and so many airways, headways, gateways, or water levels through the mines, measures, or strata, the working whereof shall be so prevented, as may be requisite to enable them to ventilate, drain, and work their said mines, but no such airway, headway, gateway, or water level shall be of greater dimensions or section than the prescribed dimensions and sections, and where no dimensions shall be described not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the railway or works, or so as to injure the same, or to impede the passage thereon.

Dimen-
sions of
such air-
ways &c.

Company to
make com-
pensation to
owners for
loss by in-
terruption
of con-
tinuous
working of
such mines,

81. The company shall from time to time pay to the owner, lessee, or occupier of any such mines extending so as to lie on both sides of the railway all such additional expenses and losses as shall be incurred by such owner, lessee, or occupier by reason of the severance of the lands lying over such mines by the railway, or of the continuous working of such mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the railway, and for any minerals not purchased by the company which cannot be obtained by reason of making and maintaining the railway; and if any dispute or question shall arise between the company and such owner, lessee, or occupier as aforesaid, touching the amount of such losses or expenses, the same shall be settled by arbitration.

82. If any loss or damage be sustained by the owner or occupier of the lands lying over any such mines the working whereof shall have been so prevented as aforesaid (and not being the owner, lessee, or occupier of such mines), by reason of the making of any such airway or other work as aforesaid, which or any like work would not have been necessary to be made but for the working of such mines having been so prevented as aforesaid, the company shall make full compensation to such owner or occupier of the surface lands for the loss or damage so sustained by him.

83. For better ascertaining whether any such mines are being worked, or have been worked so as to damage the railway or works, it shall be lawful for the company, after giving twenty-four hours' notice in writing, to enter upon any lands through or near which the railway passes wherein any such mines are being worked or are supposed so to be, and to enter into and return from any such mines or the works connected therewith; and for that purpose it shall be lawful for them to make use of any apparatus or machinery belonging to the owner, lessee, or occupier of such mines, and to use all necessary means for discovering the distance from the railway to the parts of such mines which are being worked or about so to be.

84. If any such owner, lessee, or occupier of any such mine shall refuse to allow any person appointed by the company for that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall for every such refusal forfeit to the company a sum not exceeding twenty pounds.

85. If it appear that any such mines have been worked contrary to the provisions of this or the special act, the company may, if they think fit, give notice to the owner, lessee, or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the railway, and preventing injury thereto; and if after such notice any such owner, lessee, or occupier do not forthwith proceed to construct the works necessary for making safe the railway, the company may themselves construct such works, and recover the expense thereof from such owner, lessee, or occupier by action in any of the superior courts.

And with respect to the carrying of passengers and goods upon the railway, and the tolls to be taken thereon, be it enacted as follows:

86. It shall be lawful for the company to use and employ locomotive engines or other moving power, and carriages and waggon to be drawn or propelled thereby, and to carry and convey upon the railway all such pas-

and also to owner of surface lands for any airway or other work made necessary by the railway.

Company may enter and inspect the working of mines.

Owners refusing to allow inspection liable to forfeit 20l.

If mines improperly worked, company may require owners to adopt means for making safe the railway.

Passengers and goods on railway.

Company may employ engines and

carriages, passengers and goods as shall be offered to them for that purpose, and to make such reasonable charges in respect thereof as they may from time to time determine upon, not exceeding the tolls by the special act authorized to be taken by them.

Company may contract with other companies for passage of trains and apportionment of tolls.

87. It shall be lawful for the company from time to time to enter into any contract with any other company, being the owners or lessees or in possession of any other railway, for the passage over or along the railway by the special act authorized to be made of any engines, coaches, waggons, or other carriages of any other company, or which shall pass over any other line of railway, or for the passage over any other line of railway of any engines, coaches, waggons, or other carriages of the company, or which shall pass over their line of railway, upon the payment of such tolls and under such conditions and restrictions as may be mutually agreed upon; and for the purpose aforesaid it shall be lawful for the respective parties to enter into any contract for the division or apportionment of the tolls to be taken upon their respective railways.

Such contracts not to affect tolls payable by persons not parties thereto.

88. Provided always, That no such contract as aforesaid shall in any manner alter, affect, increase, or diminish any of the tolls which the respective companies, parties to such contracts, shall for the time being be respectively authorized and entitled to demand or receive from any person or any other company, but that all other persons and companies shall, notwithstanding any such contract, be entitled to the use and benefit of any of the said railways, upon the same terms and conditions, and on payment of the same tolls, as they would have been in case no such contract had been entered into.

Company not to be liable to a greater extent than common carriers.

89. Nothing in this or the special act contained shall extend to charge or make liable the company further or in any other case than where, according to the laws of the realm, stage coach proprietors and common carriers would be liable, nor shall extend in any degree to deprive the company of any protection or privilege which common carriers or stage coach proprietors may be entitled to; but, on the contrary, the company shall at all times be entitled to the benefit of every such protection and privilege.

Company may alter or vary tolls

90. And whereas it is expedient that the company should be enabled to vary the tolls upon the railway so as to accommodate them to the circumstances of the traffic, but that such power of varying should not be used for the purpose of prejudicing or favouring particular parties, or for the purpose of collusively and unfairly creating a monopoly, either in the hands of the company or of particular parties; it shall be lawful, therefore, for the com-

pany, subject to the provisions and limitations herein and in the special act contained, from time to time to alter or vary the tolls by the special act authorized to be taken, either upon the whole or upon any particular portions of the railway, as they shall think fit; provided that all such tolls be at all times charged equally to all persons, and after the same rate, whether per ton per mile or otherwise, in respect of all passengers, and of all goods or carriages of the same description, and conveyed or propelled by a like carriage or engine, passing only over the same portion of the line of railway under the same circumstances; and no reduction or advance in any such tolls shall be made either directly or indirectly in favour of or against any particular company or person travelling upon or using the railway.

Tolls to be charged equally under like circumstances.

91. And whereas authority has been given by various acts of parliament to railway companies to demand tolls for the conveyance of passengers and goods and for other services over the fraction of a mile equal to the toll which they are authorized to demand for one mile; therefore, in cases in which any railway shall be amalgamated with any other adjoining railway or railways, such tolls shall be calculated and imposed at such rates as if such amalgamated railways had originally formed one line of railway.

Tolls to be calculated on amalgamated railways as one line.

92. It shall not be lawful for the company at any time to demand or take a greater amount of toll, or make any greater charge for the carriage of passengers or goods, than they are by this and the special act authorized to demand; and upon payment of the tolls from time to time demandable all companies and persons shall be entitled to use the railway, with engines and carriages properly constructed as by this and the special act directed, subject nevertheless to the provisions and restrictions of the said act of the sixth year of her present Majesty, intituled "An Act for the better Regulation of Railways, and for the Conveyance of Troops," and to the regulations to be from time to time made by the company by virtue of the powers in that behalf hereby and by the special act conferred upon them.

Company may take tolls.

Persons may use railway on payment of tolls.

5 & 6 Vict. c. 55, s. 11.

93. A list of all the tolls authorized by the special act to be taken, and which shall be exacted by the company, shall be published by the same being painted upon one toll board or more in distinct black letters on a white ground, or white letters on a black ground, or by the same being printed in legible characters on paper affixed to such board, and by such board being exhibited in some conspicuous place on the stations or places where such tolls shall be made payable.

List of tolls to be exhibited on a board.

Railway to be measured and milestones set up.

94. The company shall cause the length of the railway to be measured, and milestones, posts, or other conspicuous objects to be set up and maintained along the whole line thereof, at the distance of one quarter of a mile from each other, with numbers or marks inscribed thereon denoting such distances.

No tolls to be taken unless board exhibited and milestones set up.

95. No tolls shall be demanded or taken by the company for the use of the railway during any time at which the boards hereinbefore directed to be exhibited shall not be so exhibited, or at which the milestones hereinbefore directed to be set up and maintained shall not be so set up and maintained; and if any person wilfully pull down, deface, or destroy any such board or milestone, he shall forfeit a sum not exceeding five pounds for every such offence.

Tolls to be paid as directed by company.

96. The tolls shall be paid to such persons, and at such places upon or near to the railway, and in such manner and under such regulations, as the company shall, by notice to be annexed to the list of tolls, appoint.

In default of payment of tolls company may detain and sell goods.

97. If, on demand, any person fail to pay the tolls due in respect of any carriage or goods, it shall be lawful for the company to detain and sell such carriage, or all or any part of such goods, or if the same shall have been removed from the premises of the company, to detain and sell any other carriages or goods within such premises belonging to the party liable to pay such tolls, and out of the monies arising from such sale to retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale, rendering the overplus, if any, of the monies arising by such sale, and such of the carriages or goods as shall remain unsold, to the person entitled thereto, or it shall be lawful for the company to recover any such tolls by action at law.

Owners of carriages and goods to give account of lading &c. to collector of tolls.

98. Every person being the owner or having the care of any carriage or goods passing or being upon the railway shall, on demand, give to the collector of tolls, at the places where he attends for the purpose of receiving goods or of collecting tolls for the part of the railway on which such carriage or goods may have travelled or be about to travel, an exact account in writing signed by him of the number or quantity of goods conveyed by any such carriage, and of the point on the railway from which such carriage or goods have set out or are about to set out, and at what point the same are intended to be unloaded or taken off the railway; and if the goods conveyed by any such carriage, or brought for conveyance as aforesaid, be liable to the payment of different tolls, then such owner or other person shall specify the respective numbers or quantities thereof liable to each or any of such tolls.

99. If any such owner or other such person fail to give such account, or to produce his way-bill or bill of lading, to such collector or other officer or servant of the company demanding the same, or if he give a false account, or if he unload or take off any part of his lading or goods at any other place than shall be mentioned in such account, with intent to avoid the payment of any tolls payable in respect thereof, he shall for every such offence forfeit to the company a sum not exceeding ten pounds for every ton of goods, or for any parcel not exceeding one hundred weight, and so in proportion for any less quantity of goods than one ton, or for any parcel exceeding one hundred weight, (as the case may be,) which shall be upon any such carriage; and such penalty shall be in addition to the toll to which such goods may be liable.

Owners &c.
not giving
account of
lading, or
not pro-
ducing
way-bill or
avoiding
payment of
tolls liable
to penalty.

100. If any dispute arise concerning the amount of the tolls due to the company, or concerning the charges occasioned by any detention or sale thereof under the provisions herein or in the special act contained, the same shall be settled by a justice; and it shall be lawful for the company in the meanwhile to detain the goods, or (if the case so require) the proceeds of the sale thereof.

Disputes as
to amount
of tolls to be
settled by
justice.

101. If any difference arise between any toll collector or other officer or servant of the company and any owner of or person having the charge of any carriage passing or being upon the railway, or of any goods conveyed or to be conveyed by such carriage, respecting the weight, quantity, quality, or nature of such goods, such collector or other officer may lawfully detain such carriage or goods, and examine, weigh, gauge, or otherwise measure the same; and if upon such measuring or examination such goods appear to be of greater weight or quantity or of other nature than shall have been stated in the account given thereof, then the person who shall have given such account shall pay, and the owner of such carriage, or the respective owners of such goods, shall also, at the option of the company, be liable to pay, the costs of such measuring and examining; but if such goods appear to be of the same or less weight or quantity than and of the same nature as shall have been stated in such account, then the company shall pay such costs, and they shall also pay to such owner of or person having charge of such carriage, and to the respective owners of such goods, such damage (if any) as shall appear to any justice, on a summary application to him for that purpose, to have arisen from such detention.

Differences
as to
weights &c.

Collectors
may detain
and weigh
carriages
and goods.

If account
of lading in-
correct ow-
ners to pay
costs of exa-
mination,
but if cor-
rect com-
pany to pay
costs and
damages.

102. If at any time it be made to appear to any justice, upon the complaint of the company, that any such detention, measuring, or examining of any carriage or goods, as

Toll collec-
tors for
wrongful

detention of hereinbefore mentioned, was without reasonable ground, goods liable or that it was vexatious on the part of such collector or for costs other officer, then the collector or other officer shall himself pay the costs of such detention and measuring, and and damage. the damage occasioned thereby; and in default of immediate payment of any such costs or damage the same may be recovered by distress of the goods of such collector, and such justice shall issue his warrant accordingly.

Passengers practising frauds on the company liable to forfeit 2*l*.

103. If any person travel or attempt to travel in any carriage of the company, or of any other company or party using the railway, without having previously paid his fare, and with intent to avoid payment thereof, or if any person, having paid his fare for a certain distance, knowingly and wilfully proceed in any such carriage beyond such distance, without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof, or if any person knowingly and wilfully refuse or neglect, on arriving at the point to which he has paid his fare, to quit such carriage, every such person shall for every such offence forfeit to the company a sum not exceeding forty shillings.

Parties practising frauds may be detained and taken before justice

104. If any person be discovered, either in or after committing or attempting to commit any such offence as in the preceding enactment mentioned, all officers and servants and other persons on behalf of the company, or such other company or party as aforesaid, and all constables, gaolers, and peace officers, may lawfully apprehend and detain such person until he can conveniently be taken before some justice, or until he be otherwise discharged by due course of law.

Persons bringing dangerous goods on the railway without notice liable to forfeit 20*l*.

105. No person shall be entitled to carry, or to require the company to carry, upon the railway, any aquafortis, oil of vitriol, gunpowder, lucifer matches, or any other goods which in the judgment of the company may be of a dangerous nature; and if any person send by the railway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the company with whom the same are left, at the time of so sending, he shall forfeit to the company twenty pounds for every such offence; and it shall be lawful for the company to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact.

Matters in possession or custody of toll collector to be

106. If any collector of tolls or other officer employed by the company be discharged or suspended from his office, or die, abscond, or absent himself, and if such collector or other officer, or the wife, widow, or **any** of the family or representatives of any such collector or other

officer, refuse or neglect, after seven days' notice in writing for that purpose, to deliver up to the company, or to any person appointed by them for that purpose, any station, dwelling-house, office, or other building, with its appurtenances, or any books, papers, or other matters belonging to the company in the possession or custody of any such collector or officer at the occurrence of any such event as aforesaid, then, upon application being made by the company to any justice, it shall be lawful for such justice to order any constable, with proper assistance, to enter upon such station or other building, and to remove any person found therein, and to take possession thereof, and of any such books, papers, or other matters, and to deliver the same to the company, or any person appointed by them for that purpose.

delivered
to company
when re-
quired.

Justice may
order pos-
session to
be given.

107. And be it enacted, that the company shall every year cause an annual account in abstract to be prepared, showing the total receipts and expenditure of all funds levied by virtue of this or the special act, for the year ending on the thirty-first day of December or some other convenient day in each year, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified by the directors, or some of them, and by the auditors, and shall, if required, transmit a copy of the said account, free of charge, to the overseers of the poor of the several parishes through which the railway shall pass, and also to the clerks of the peace of the counties through which the railway shall pass, on or before the thirty-first day of January then next; which last-mentioned account shall be open to the inspection of the public at all seasonable hours, on payment of the sum of one shilling for every such inspection; provided always, that if the said company shall omit to prepare or transmit such account as aforesaid, if required so to do by any such clerk of the peace or overseers of the poor, they shall forfeit for every such omission the sum of twenty pounds.

Company to
prepare an-
nual ac-
count of
receipts and
payments,
and trans-
mit copy to
overseers,
clerks of
the peace,
&c.

Company
for omis-
sion liable
to forfeit
20*l*.

And with respect to the regulating of the use of the railway, be it enacted as follows: *Bye-Laws.*

108. It shall be lawful for the company, from time to time, subject to the provisions and restrictions in this and the special act contained, to make regulations for the following purposes; (that is to say,) *Company may make regulations.*

For regulating the mode by which and the speed at which carriages using the railway are to be moved or propelled; *Speed.*

For regulating the times of the arrival and departure of any such carriages; *Times of arrival.*

For regulating the loading or unloading of such car- *Loading.*

Bye-Laws.

Receipt of
goods.

Prevention
of nui-
sances,

and other
purposes.

Proviso.

Company
may make
and alter
bye-laws,
see 3 & 4
Vict. c. 97,
s. 8, 9.

Persons of-
fending
against bye-
laws liable
to forfeit 5*l*.

Substance
of such bye-
laws to be
exhibited
on a board.

riages, and the weights which they are respectively to carry ;

For regulating the receipt and delivery of goods and other things which are to be conveyed upon such carriages ;

For preventing the smoking of tobacco, and the commission of any other nuisance, in or upon such carriages, or in any of the stations or premises occupied by the company ;

And, generally, for regulating the travelling upon or using and working of the railway :

But no such regulation shall authorize the closing of the railway, or prevent the passage of engines or carriages on the railway, at reasonable times, except at any time when in consequence of any of the works being out of repair, or from any other sufficient cause, it shall be necessary to close the railway or any part thereof.

109. For better enforcing the observance of all or any of such regulations it shall be lawful for the company, subject to the provisions of an act passed in the fourth year of the reign of her present Majesty, intituled, "An Act for Regulating Railways," to make bye-laws, and from time to time to repeal or alter such bye-laws, and make others, provided that such bye-laws be not repugnant to the laws of that part of the United Kingdom where the same are to have effect, or to the provisions of this or the special act ; and such bye-laws shall be reduced into writing, and shall have affixed thereto the common seal of the company ; and any person offending against any such bye-law shall forfeit for every such offence any sum not exceeding five pounds, to be imposed by the company in such bye-laws as a penalty for any such offence ; and if the infraction or non-observance of any such bye-law or other such regulation as aforesaid be attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, it shall be lawful for the company summarily to interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to any penalty incurred by the infraction of any such bye-law.

110. The substance of such last-mentioned bye-laws, when confirmed or allowed according to the provisions of any act in force regulating the allowance or confirmation of the same, shall be painted on boards, or printed on paper and pasted on boards, and hung up and affixed and continued on the front or other conspicuous part of every wharf or station belonging to the company, according to the nature or subject matter of such bye-laws respectively, and so as to give public notice thereof to the parties

interested therein or affected thereby; and such boards *Bye-Laws.*
shall from time to time be renewed as often as the bye-
laws thereon or any part thereof shall be obliterated or
destroyed; and no penalty imposed by any such bye-law
shall be recoverable unless the same shall have been pub-
lished and kept published in manner aforesaid.

111. Such bye-laws, when so confirmed, published, and *Such bye-*
affixed, shall be binding upon and be observed by all par- *laws to be*
ties, and shall be sufficient to justify all persons acting *binding on*
under the same; and for proof of the publication of any *all parties.*
such bye-laws it shall be sufficient to prove that a printed
paper or painted board, containing a copy of such bye-
laws, was affixed and continued in manner by this act
directed, and in case of its being afterwards displaced or
damaged then that such paper or board was replaced as
soon as conveniently might be.

And with respect to leasing the railway, be it enacted *Leasing of*
as follows: *railway.*

112. Where the company shall be authorized by the
special act to lease the railway or any part thereof to any *Lease of*
company or person, the lease to be executed in pursuance *railway to*
of such authority shall contain all usual and proper cove- *contain all*
nants on the part of the lessee for maintaining the railway, *usual and*
or the portion thereof comprised in such lease, in good *proper*
and efficient repair and working condition during the *covenants.*
continuance thereof, and for so leaving the same at the
expiration of the term thereby granted, and such other
provisions, conditions, covenants, and agreements as are
usually inserted in leases of a like nature.

113. Such lease shall entitle the company or person to *Such lease*
whom the same shall be granted to the free use of the *to entitle*
railway or portion of railway comprised therein, and during *lessees to*
the continuance of any such lease all the powers and pri- *use of rail-*
vileges granted to and which might otherwise be exercised *way and ex-*
and enjoyed by the company, or the directors thereof, or *ercise of*
their officers, agents, or servants, by virtue of this or the *powers and*
special act, with regard to the possession, enjoyment, and *privileges*
management of the railway, or of the part thereof com- *granted to*
prised in such lease, and the tolls to be taken thereon, *company.*
shall be exercised and enjoyed by the lessee, and the offi-
cers and servants of such lessee, under the same regula-
tions and restrictions as are by this or the special act
imposed on the company, and their directors, officers, and
servants; and such lessee shall, with respect to the rail-
way comprised in such lease, be subject to all the
obligations by this or the special act imposed on the
company.

And with respect to the engines and carriages to be *Carriages*
brought on the railway, be it enacted as follows: *& engines*

Engines to
consume
their
smoke.

Penalty.

No en-
gines to be
brought on
railway
until ap-
proved of
by company
and certifi-
cate of ap-
proval
given.

Engines
out of repair
or unfit to
be used
may be re-
moved.

Persons
using en-
gines with-
out certifi-
cate, or not
removing
improper
engines
after notice,
liable to for-
feit 20%.

Carriages

114. Every locomotive steam engine to be used on the railway shall, if it use coal or other similar fuel emitting smoke, be constructed on the principle of consuming and so as to consume its own smoke; and if any engine be not so constructed the company or party using such engine shall forfeit five pounds for every day during which such engine shall be used on the railway.

115. No locomotive or other engine, or other description of moving power, shall at any time be brought upon or used on the railway unless the same have first been approved of by the company; and within fourteen days after notice given to the company by any party desirous of bringing any such engine on the railway the company shall cause their engineer or other agent to examine such engine at any place within three miles' distance from the railway to be appointed by the owner thereof, and to report thereon to the company; and within seven days after such report, if such engine be proper to be used on the railway, the company shall give a certificate to the party requiring the same of their approval of such engine; and if at any time the engineer or other agent of the company report that any engine used upon the railway is out of repair, or unfit to be used upon the railway, the company may require the same to be taken off, or may forbid its use upon the railway until the same shall have been repaired to the satisfaction of the company, and upon the engine being so repaired the company shall give a certificate to the party requiring the same of their approval of such engine; and if any difference of opinion arise between the company and the owner of any such engine as to the fitness or unfitness thereof for the purpose of being used on the railway, such difference shall be settled by arbitration.

116. If any person, whether the owner or other person having the care thereof, bring or use upon the railway any locomotive or other engine, or any moving power, without having first obtained such certificate of approval as aforesaid, or if, after notice given by the company to remove any such engine from the railway, such person do not forthwith remove the same, or if, after notice given by the company not to use any such engine on the railway, such person do so use such engine, without having first repaired the same to the satisfaction of the company, and obtained such certificate of approval, every such person shall in any of the cases aforesaid forfeit to the company a sum not exceeding twenty pounds; and in any such case it shall be lawful for the company to remove such engine from the railway.

117. No carriage shall pass along or be upon the rail-

way (except in directly crossing the same, as herein or by the special act authorized,) unless such carriage be at all times, so long as it shall be used or shall remain on the railway, of the construction and in the condition which the regulations of the company for the time being shall require; and if any dispute arise between the company and the owner of any such carriage as to the construction or condition thereof, in reference to the then existing regulations of the company, such dispute shall be settled by arbitration.

to be constructed according to company's regulations.

118. The regulations from time to time to be made by the company respecting the carriages to be used on the railway shall be drawn up in writing, and be authenticated by the common seal of the company, and shall be applicable alike to the carriages of the company and to the carriages of other companies or persons using the railway; and a copy of such regulations shall, on demand, be furnished by the secretary of the company to any person applying for the same.

Such regulations to apply also to company's carriages.

119. If any carriage, not being of such construction or in such condition as the regulations of the company for the time being require, be made to pass or be upon any part of the railway (except as aforesaid), the owner thereof, or any person having for the time being the charge of such carriage, shall forfeit to the company a sum not exceeding ten pounds for every such offence, and it shall be lawful for the company to remove any such carriage from the railway.

If carriages used contrary to such regulations owner liable to forfeit 10l.

120. The respective owners of carriages using the railway shall cause to be entered with the secretary or other officer of the company appointed for that purpose the names and places of abode of the owners of such carriages respectively, and the numbers, weights, and gauges of their respective carriages; and such owners shall also, if so required by the company, cause the same particulars to be painted in legible characters on some conspicuous part of the outside of every such carriage, so as to be always open to view; and every such owner shall, whenever required by the company, permit his carriage to be weighed, measured, or gauged at the expense of the company.

Owner's name &c. to be registered and painted on carriages.

121. If the owner of any carriage fail to comply with the requisitions contained in the preceding enactment, it shall be lawful for the company to refuse to allow such carriage to be brought upon the railway, or to remove the same therefrom until such compliance.

If owner fail to register carriage may be removed.

122. If the loading of any carriage using the railway be such as to be liable to collision with other carriages properly loaded, or to be otherwise dangerous, or if the person having the care of any carriage or goods upon the

Carriages improperly loaded, or suffered to

obstruct the railway suffer the same or any part thereof to remain on road, may the railway so as to obstruct the passage or working be unloaded thereof, it shall be lawful for the company to cause such or removed. carriage or goods to be unloaded and removed in any manner proper for preventing such collision or obstruction, and to detain such carriage or goods, or any part thereof, until the expenses occasioned by such unloading, removal, or detention be paid.

Company not to be liable for damage by such unloading &c.

123. The company shall not be liable for any damage or loss occasioned by any such unloading, removal, or detention as aforesaid, except for damage wilfully or negligently done to any carriage or goods so unloaded, removed, or detained; nor shall they be liable for the safe custody of any such carriage or goods so detained, unless the same be wrongfully detained by them, and then only for so long a time as the same shall have been so wrongfully detained.

Owners of engines and carriages liable for damage done by their servants.

124. The respective owners of engines and carriages passing or being upon the railway shall be answerable for any trespass or damage done by their engines or carriages, or by any of the servants or persons employed by them, to or upon the railway, or the machinery or works belonging thereto, or to or upon the property of any other person; and every such servant or other person may lawfully be convicted of such trespass or damage before any two justices of the peace, either by the confession of the party offending, or upon the oath of some credible witness; and upon such conviction every such owner shall pay to the company or to the person injured, as the case may be, the damage to be ascertained by such justices, so that the same do not exceed fifty pounds.

Owners may recover the amount of such damage from their servants.

125. It shall be lawful for any owner of any engine or carriage who shall pay the amount of any damage caused by the misfeasance or negligence of any servant or other person employed by him to recover the amount so paid by him from such servant or other person by the same means as the company are enabled to recover the amount of such damage from the owner of any engine or carriage.

Arbitration.

And with respect to the settlement of disputes by arbitration, be it enacted as follows:

When questions are to be determined by arbitration each party to appoint an arbitrator.

126. When any dispute authorized or directed by this or the special act, or any act incorporated therewith, to be settled by arbitration, shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator to whom such dispute shall be referred; and every appointment of an arbitrator shall be made on the part of the company, under the hand of the secretary or any two of the directors of the com-

pany, and on the part of any other party under the hand of such party, or if such party be a corporation aggregate, under the common seal of such corporation, and such appointment shall be delivered to the arbitrators, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing, in which shall be stated the matters so required to be referred to arbitration, shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties; and such arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single arbitrator shall be final.

Arbitra-
tion.Appoint-
ment not to
be revoked
without
consent.On failure
of one
party the
other may
appoint ar-
bitrator to
act for both.

127. If before the matters so referred shall be determined any arbitrator appointed by either party die, or become incapable to act, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so the remaining or other arbitrator may proceed "ex parte;" and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or incapacity as aforesaid.

If arbitrator
die or re-
sign an-
other to be
appointed.

128. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ, or which shall be referred to him under this or the special act; and if such umpire shall die, or become incapable to act, they shall forthwith after such death or incapacity appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

If umpire
die another
to be ap-
pointed

129. If in either of the cases aforesaid the said arbitrators shall refuse, or shall for seven days after request of either party to such arbitration neglect to appoint an umpire, the Board of Trade shall, on the application of either party to such arbitration appoint an umpire; and the decision of such umpire on the matters on which the arbitrators.

Board of
Trade may
appoint um-
pire, on
neglect of
arbitrators.

Arbitration. arbitrators shall differ, or which shall be referred to him under this or the special act, shall be final.

If single arbitrator die the matter to begin de novo. 130. If, where a single arbitrator shall have been appointed, such arbitrator shall die, or become incapable to act, before he shall have made his award, the matters referred to him shall be determined by arbitration, under the provisions of this or the special act, in the same manner as if such arbitrator had not been appointed.

If either arbitrator refuse to act the other to proceed. 131. If, where more than one arbitrator shall have been appointed, either of the arbitrators refuse, or for seven days neglect to act, the other arbitrator may proceed "ex parte," and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

If arbitrators fail to make their award within 21 days, the matter to go to the umpire. 132. If, where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time, if any, as shall have been appointed for that purpose by both such arbitrators under their hands, the matter referred to them shall be determined by the umpire to be appointed as aforesaid.

Arbitrators may call for documents and administer oaths. 133. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Arbitrator and umpire to make and subscribe declaration. 134. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him he shall, in the presence of a justice, make and subscribe the following declaration; that is to say,

"I, A.B., do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me, under the provisions of the act [naming the special act]. A.B.

"Made and subscribed in the presence of"

Declaration to be annexed to award. And such declaration shall be annexed to the award when made; and if any arbitrator or umpire, having made such declaration, shall wilfully act contrary thereto, he shall be guilty of a misdemeanor.

Costs to be settled by arbitrators. 135. Except where by this or the special act, or any act incorporated therewith, it shall be otherwise provided, the costs of and attending every such arbitration, to be determined by the arbitrators, shall be in the discretion of the arbitrators.

Submission to arbitration. 136. The submission to any such arbitration may be made a rule of any of the superior courts, on the application of either of the parties.

137. No award made with respect to any question referred to arbitration under the provisions of this or the special act shall be set aside for irregularity or error in matter of form. Award not to be set aside.

138. And be it enacted, that any summons or notice, or any writ, or other proceeding at law or in equity requiring to be served upon the company, may be served by the same being left at or transmitted through the post directed to the principal office of the company, or one of their principal offices where there shall be more than one, or being given personally to the secretary, or in case there be no secretary then by being given to any one director of the company. *Service of notices upon company.*

139. And be it enacted, that if any party shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the special act, or any act incorporated therewith, or by virtue of any power or authority thereby given, and if before action brought in respect thereof such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action; and if no such tender shall have been made it shall be lawful for the defendant, by leave of the court where such action shall be pending, at any time before issue joined to pay into court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court. *Tender of amends.*
After tender of sufficient amends party not to recover in any action.

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, be it enacted as follows: *Recovery of damages and penalties.*

140. In all cases where any damages, costs, or expenses are by this or the special act, or any act incorporated therewith, directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined by two justices; and if the amount so ascertained be not paid by the company or other party liable to pay the same within seven days after demand, the amount may be recovered by distress of the goods of the company or other party liable as aforesaid; and the justices by whom the same shall have been ordered to be paid, or either of them, or any other justice, on application, shall issue their or his warrant accordingly. *Damages not otherwise provided for may be determined by justices, and recovered by distress.*

141. If sufficient goods of the company cannot be found whereon to levy any such damages, costs, and expenses payable by the company, the same may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the company; and *Distress against company may be recovered by*

distress of
goods of
treasurer.

Notice.

Treasurer
may sue
company.

In ques-
tions of
damages
&c. jus-
tices may
issue sum-
mons,

and upon
appearance
or proof of
service de-
termine.

Costs.

Company to
publish
short parti-
culars of
offences for
which any
penalty is
imposed
and affix
the same to
a board,

and renew
when obli-
terated.

Penalty for
defacing
boards
used for

the justices aforesaid, or either of them, on application shall issue their or his warrant accordingly; but no such distress shall issue against the goods of such treasurer unless seven days' previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer, or left at his residence; and if such treasurer pay any money under such distress as aforesaid he may retain the amount so paid by him, and all costs and expenses occasioned thereby, out of any money belonging to the company, coming into his custody or control, or he may sue the company for the same.

142. Where in this or the special act any question of compensation, expenses, charges, or damages, or other matter, is referred to the determination of any one justice or more, it shall be lawful for any justice, upon the application of either party, to summon the other party to appear before one justice, or before two justices, as the case may require, at a time and place to be named in such summons; and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such one justice, or such two justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses, on oath; and the cost of every such inquiry shall be in the discretion of such justices, and they shall determine the amount thereof.

143. The company shall publish the short particulars of the several offences for which any penalty is imposed by this or the special act, or by any bye-law of the company affecting other persons than the shareholders, officers, or servants of the company, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, or printed upon paper and pasted thereon, and shall cause such board to be hung up or affixed on some conspicuous part of the principal place of business of the company, and where any such penalties are of local application shall cause such boards to be affixed in some conspicuous place in the immediate neighbourhood to which such penalties are applicable or have reference; and such particulars shall be renewed as often as the same or any part thereof is obliterated or destroyed; and no such penalty shall be recoverable unless it shall have been published and kept published in the manner hereinbefore required.

144. If any person pull down or injure any board put up or affixed as required by this or the special act for the purpose of publishing any bye-law or penalty, or shall obliterate any of the letters or figures thereon, he shall

forfeit for every such offence a sum not exceeding five such pounds, and shall defray the expenses attending the restoration of such board.

145. Every penalty or forfeiture imposed by this or the special act, or by any bye-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before two justices; and on complaint being made to any justice he shall issue a summons requiring the party complained against to appear before two justices at a time and place to be named in such summons, and every such summons shall be served on the party offending either in person or by leaving the same with some inmate at his usual place of abode; and upon the appearance of the party complained against, or, in his absence, after proof of the due service of such summons, it shall be lawful for any two justices to proceed to the hearing of the complaint, and that although no information in writing or in print shall have been exhibited before them; and upon proof of the offence, either by the confession of the party complained against, or upon the oath of one credible witness or more, it shall be lawful for such justices to convict the offender, and upon such conviction to adjudge the offender to pay the penalty or forfeiture incurred, as well as such costs attending the conviction as such justices shall think fit.

Penalties to be recovered before two justices who may issue summons.

and upon appearance or proof of service convict the offender.

Costs.

146. If forthwith upon any such adjudication as aforesaid the amount of the penalty or forfeiture, and of such costs as aforesaid, be not paid, the amount of such penalty and costs shall be levied by distress, and such justices, or either of them, shall issue their or his warrant of distress accordingly.

Penalties may be levied by distress.

147. It shall be lawful for any such justice to order any offender so convicted as aforesaid to be detained and kept in safe custody until return can be conveniently made to the warrant of distress to be issued for levying such penalty or forfeiture and costs, unless the offender give sufficient security, by way of recognizance or otherwise, to the satisfaction of the justice, for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such security; but if before issuing such warrant of distress it shall appear to the justice, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such justice whereon to levy such penalty or forfeiture and costs, he may, if he thinks fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to the justice, then such justice shall by

Justice may detain offenders until return made to warrant of distress.

If no sufficient distress can be had, offender

may be
committed.

warrant cause such offender to be committed to gaol, there to remain without bail for any term not exceeding three months, unless such penalty or forfeiture and costs be sooner paid and satisfied.

Distress to
be levied
by sale of
goods of
party.

Overplus to
be repaid.

148. Where in this or the special act, or any act incorporated therewith, any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Distress
not to be
unlawful for
want of
form.

149. No distress levied by virtue of this or the special act, or any act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser "ab initio" on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

Justices
may award
one-half of
penalty to
informer
and remain-
der to over-
seers.

150. The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed, to be applied in aid of the poor's rate of such parish, or if the place wherein the offence shall have been committed shall be extra-parochial, then such justices shall direct such remainder to be applied in aid of the poor's rate of such extra-parochial place, or, if there shall not be any poor's rate therein, in aid of the poor's rate of any adjoining parish or district.

Penalties
to be sued
for within
six months.

151. No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this or the special act, or any act incorporated therewith, for any offence made cognizable before a justice, unless the complaint respecting such offence shall have been made before such justice within six months next after the commission of such offence.

Damage to
be made
good in ad-
dition to
penalty.

152. If, through any act, neglect, or default on account whereof any person shall have incurred any penalty imposed by this or the special act, any damage to the property of the company shall have been committed by such person, he shall be liable to make good such damage as

well as to pay such penalty; and the amount of such damages shall, in case of dispute, be determined by the justices by whom the party incurring such penalty shall have been convicted; and on nonpayment of such damages, on demand, the same shall be levied by distress, and such justices, or one of them, shall issue their or his warrant accordingly.

Recovery of damages and penalties.

153. It shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction under the provisions of this or the special act, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence.

Justice may summon witnesses.

Witnesses not appearing or refusing to be examined liable to forfeit 5*l*.

154. It shall be lawful for any officer or agent of the company, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this or the special act, and whose name and residence shall be unknown to such officer or agent, and convey him, with all convenient despatch, before some justice, without any warrant or other authority than this or the special act; and such justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Officers of company may detain offenders whose names shall be unknown.

155. The justices before whom any person shall be convicted of any offence against this or the special act, or any act incorporated therewith, may cause the conviction to be drawn up according to the form in the schedule to this act annexed.

Form of conviction.

156. No proceeding in pursuance of this or the special act, or any act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts.

Proceedings not vacated for want of form &c.

157. If any party shall feel aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture under the provisions of this or the special act, or any act incorporated therewith, such party may appeal to the general quarter sessions for the county or place in which the cause of appeal shall have arisen; but no such appeal shall be entertained unless it be made within four months next after the making of such deter-

Parties aggrieved may appeal to quarter sessions.

Notice. mination or adjudication, nor unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith after such notice enter into recognizances, with two sufficient securities, before a justice, conditioned duly to prosecute such appeal, and to abide the order of the court thereon.

Court may make such order as they think reasonable. 158. At the quarter sessions for which such notice shall be given the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions; and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

Receiver of metropolitan police district to receive penalties incurred within his district. 159. Provided always, and be it enacted, That notwithstanding anything herein or in the special act, or any act incorporated therewith, contained, every penalty or forfeiture imposed by this or the special act, or any act incorporated therewith, or by any bye-law in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the metropolitan police district, and shall be applied in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied by an act passed in the third year of the reign of her present Majesty, intituled "An Act for Regulating the Police Courts in the Metropolis;" and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal, and upon the same terms, as is provided in respect of any order or conviction of any of the said police magistrates by the said last-mentioned act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expenses as he or they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned act.

2 & 3 Vict.
c. 71.

160. And be it enacted, That every person who, upon any examination upon oath, under the provisions of this or the special act, or any act incorporated therewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury. Persons giving false evidence liable to penalties.

161. And be it declared and enacted, That all sums of money which have been or shall be paid into the bank of Ireland in the name and with the privity of the accountant-general of the Court of Chancery of Ireland, under the provisions of an act passed in the second year of the reign of her present Majesty, intituled "An Act to Provide for the Custody of certain Monies paid in pursuance of the Standing Orders of either House of Parliament by Subscribers to Works or Undertakings to be effected under the Authority of Parliament," shall and may be paid out and applied under any order of the said Court of Chancery exempt from usher's poundage. *Usher's poundage.*
Money paid into the bank of Ireland to be exempt from.
1 & 2 Vict. c. 117.

And with respect to the provision to be made for affording access to the special act by all parties interested, be it enacted as follows: *Access to special act.*

162. The company shall at all times after the expiration of six months after the passing of the special act keep in their principal office of business a copy of the special act, printed by the printers to her Majesty, or some of them; shall also within the space of such six months deposit in the office of each of the clerks of the peace of the several counties into which the works shall extend a copy of such special act, so printed as aforesaid; and the said clerks of the peace shall receive, and they and the company respectively shall retain, the said copies of the special act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by an act passed in the first year of the reign of her present Majesty, intituled "An Act to compel Clerks of the Peace for Counties, and other Persons, to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament." *Company to keep copy of special act at their principal office, and deposit copies with clerks of the peace.*
7 W. IV. & 1 Vict. c. 83.

163. If the company shall fail to keep or deposit, as thereinbefore mentioned, any of the said copies of the special act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited. Penalty on company failing to keep or deposit copies.

164. And be it enacted, That this act shall not extend to Scotland.

165. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of parliament. Act may be amended or repealed.

SCHEDULE referred to by the foregoing Act.

Form of
conviction.

to wit.

BE it remembered, That on the day of
in the year of our Lord A.B. is convicted before
us, C., D., two of her Majesty's justices of the peace for
the county of [here describe the offence
generally, and the time and place when and where com-
mitted], contrary to the [here name the special act].
Given under our hands and seals the day and year first
above written.

C.
D.

8 & 9 VICT. cap. 96.

*An Act to restrict the powers of selling or leasing
Railways contained in certain Acts of Parlia-
ment relating to such Railways.*

[4th August, 1845.]

Preamble.

WHEREAS provisions have been introduced in various
acts of parliament, during the present session of parlia-
ment, relating to railways, giving to railway companies
general powers of granting or accepting a lease, sale, or
transfer of their own or other lines of railway; and it is
expedient that such powers should be restrained:

No railway
to be leased
or trans-
ferred, un-
less under
a distinct
provision of
an Act
specifying
the parties.

Be it therefore enacted by the queen's most excellent
Majesty, by and with the advice and consent of the lords
spiritual and temporal, and commons, in this present par-
liament assembled, and by the authority of the same,
that it shall not be lawful for the company of proprietors
of any railway, by virtue of any powers contained in any
act passed in the present session, to make or grant, or for
any other railway company or party, by virtue of any
such powers, to accept, a sale, lease, or other transfer of
any railway, unless under the authority of a distinct
provision in some act of parliament to that effect specify-
ing by name the railway to be so leased, sold, or trans-
ferred, and the company or party by whom such lease,
sale, or transfer may be respectively made, granted, or
accepted.

8 & 9 VICT. cap. 113.

An Act to facilitate the Admission in Evidence of certain official and other Documents.

[8th August, 1845.]

WHEREAS it is provided by many statutes that various Preamble certificates, official and public documents, documents and proceedings of corporations and of joint stock and other companies, and certified copies of documents, bye laws, entries in registers and other books, shall be receivable in evidence of certain particulars in courts of justice, provided they be respectively authenticated in the manner prescribed by such statutes: And whereas the beneficial effect of these provisions has been found by experience to be greatly diminished by the difficulty of proving that the said documents are genuine; and it is expedient to facilitate the admission in evidence of such and the like documents:

1. Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That whenever by any act now in force or hereafter to be in force any certificate, official or public document, or document or proceeding of any corporation or joint stock or other company, or any certified copy of any document, bye law, entry in any register or other book, or of any other proceeding, shall be receivable in evidence of any particular in any court of justice, or before any legal tribunal, or either House of Parliament, or any committee of either House, or in any judicial proceeding, the same shall respectively be admitted in evidence, provided they respectively purport to be sealed or impressed with a stamp, or sealed and signed, or signed alone, as required, or impressed with a stamp and signed, as directed by the respective acts made or to be hereafter made, without any proof of the seal or stamp, where a seal or stamp is necessary, or of the signature or of the official character of the person appearing to have signed the same, and without any further proof thereof in every case in which the original record could have been received in evidence.

2. And be it enacted, That all courts, judges, justices, Courts, &c. masters in chancery, masters of courts, commissioners to take judicially acting, and other judicial officers shall hence- dicial

notice of
signature
of judges,
&c.

forth take judicial notice of the signature of any of the equity or common law judges of the superior courts at Westminster, provided such signature be attached or appended to any decree, order, certificate, or other judicial or official document.

Private
acts,
printed by
Queen's
printer, &c.
admissible
as evidence.

3. And be it enacted, 'That all copies of private and local and personal acts of Parliament not public acts, if purporting to be printed by the Queen's printers, and all copies of the journals of either House of Parliament, and of royal proclamations, purporting to be printed by the printers to the crown or by the printers to either House of Parliament, or by any or either of them, shall be admitted as evidence thereof by all courts, judges, justices, and others, without any proof being given that such copies were so printed.

Persons
forging
seal, stamp,
or signa-
ture of cer-
tain docu-
ments, or
print any
private act
with false
purport,
guilty of
felony.

4. Provided always, and be it enacted, That if any person shall forge the seal, stamp or signature of any such certificate, official or public document, or document or proceeding of any corporation or joint stock or other company, or of any certified copy of any document, bye law, entry in any register or other book, or other proceeding as aforesaid, or shall tender in evidence any such certificate, official or public document, or document or proceeding of any corporation or joint stock or other company, or any certified copy of any document, bye law, entry in any register or other book, or of any other proceeding, with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, whether such seal, stamp, or signature be those of or relating to any corporation or company already established, or to any corporation or company to be hereafter established, or if any person shall forge the signature of any such judge as aforesaid to any order, decree, certificate, or other judicial or official document, or shall tender in evidence any order, decree, certificate, or other judicial or official document with a false or counterfeit signature of any such judge as aforesaid thereto, knowing the same to be false or counterfeit, or if any person shall print any copy of any private act or of the journals of either House of Parliament, which copy shall falsely purport to have been printed by the printers to the crown, or by the printers to either House of Parliament, or by any or either of them, or if any person shall tender in evidence any such copy, knowing that the same was not printed by the person or persons by whom it so purports to have been printed, every such person shall be guilty of felony, and shall upon conviction be liable to transportation for seven years, or to imprisonment for any term not more than three nor less than one year, with

By the Law
of Evidence
Amend-
ment Act,
14 & 15
Vict. c. 99,
s. 17,
offenders
under this
act may be
dealt with
in any
county or
place in
which ap-
prehended
or in cus-
tody.

hard labour: Provided also, that whenever any such document as beforementioned shall have been received in evidence by virtue of this act, the court, judge, commissioner, or other person officiating judicially who shall have admitted the same, shall, on the request of any party against whom the same is so received, be authorized, at its or at his own discretion, to direct that the same shall be impounded, and be kept in the custody of some officer of the court or other proper person, until further order touching the same shall be given, either by such court, or the court to which such master or other officer belonged, or by the persons or person who constituted such court, or by some one of the equity or common law judges of the superior courts at Westminster on application being made for that purpose.

5. And be it enacted, That this act shall not extend to Scotland.

6. And be it enacted, That this act may be repealed, Act may be altered, or amended during this present session of Parliament. amended.

7. And be it enacted, That this act shall take effect Com- from the first day of November next after the passing mencement thereof.

9 VICT. cap. 20.

An Act to amend an Act of the Second Year of her present Majesty, for providing for the Custody of certain Monies paid, in pursuance of the Standing Orders of either House of Parliament, by Subscribers to Works or Undertakings to be effected under the Authority of Parliament.

[18th June, 1846.]

WHEREAS an act was passed in the second year of the Preamble. reign of her present Majesty Queen Victoria, intituled "An Act to provide for the Custody of certain Monies 1 & 2 Vict. paid, in pursuance of the Standing Orders of either House c. 117. of Parliament, by Subscribers to Works or Undertakings to be effected under the Authority of Parliament:" And whereas it is expedient that the said act should be repealed, and should be re-enacted, with such modifications, extensions, and alterations as after mentioned:

1. Be it therefore enacted by the Queen's most excellent Recited act Majesty, by and with the advice and consent of the Lords repealed.

Monies already paid in to be dealt with as directed by former act.

Authority to deposit.

spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the said act shall be and is hereby repealed : Provided always, that all acts done under the provisions of the said act shall be good, valid, and effectual to all intents and purposes, and that all sums of money paid under the provisions of the said act shall be dealt with in all respects as if this act had not been passed.

2. And be it enacted, That in all cases in which any sum of money is required by any standing order of either House of Parliament, either now in force or hereafter to be in force, to be deposited by the subscribers to any work or undertaking which is to be executed under the authority of an act of Parliament, if the director or person or directors or persons having the management of the affairs of such work or undertaking, not exceeding five in number, shall apply to one of the clerks in the office of the clerk of the Parliaments with respect to any such money required by any standing order of the Lords spiritual and temporal in Parliament assembled, or to one of the clerks of the private bill office of the House of Commons with respect to any such money required by any standing order of the Commons in Parliament assembled, to be deposited, it shall be lawful for the clerk so applied to, by warrant or order under his hand, to direct that such sum of money shall be paid in manner hereinafter mentioned ; (that is to say,) into the Bank of England, in the name and with the privity of the accountant-general of the Court of Chancery in England, if the work or undertaking in respect of which the sum of money is required to be deposited is intended to be executed in that part of the United Kingdom called England, or into any of the banks in Scotland established by act of Parliament or royal charter, in the name and with the privity of the Queen's remembrancer of the Court of Exchequer in Scotland, at the option of the person or persons making such application as aforesaid, in case such work or undertaking is intended to be executed in that part of the United Kingdom called Scotland, or into the Bank of Ireland, in the name and with the privity of the accountant-general of the Court of Chancery in Ireland, in case such work or undertaking is intended to be made or executed in that part of the United Kingdom called Ireland ; and such warrant or order shall be a sufficient authority for the accountant-general of the Court of Chancery in England, the Queen's remembrancer of the Court of Exchequer in Scotland, and the accountant-general of the Court of Chancery in Ireland, respectively, to permit the sum of money directed to be paid by such warrant or order to be placed to an account opened or to

be opened in his name in the bank mentioned in such warrant or order.

3. And be it enacted, That it shall be lawful for the Payment of person or persons named in such warrant or order, or the deposit. survivors or survivor of them, to pay the sum mentioned in such warrant or order into the bank mentioned in such warrant or order in the name and with the privity of the officer or person in whose name such sum shall be directed to be paid by such warrant or order, to be placed to his account there *ex parte* the work or undertaking mentioned in such warrant or order, pursuant to the method prescribed by any act or acts for the time being in force for regulating monies paid into the said courts, and pursuant to the general orders of the said courts respectively, and without fee or reward; and every such sum so paid in, or the securities in or upon which the same may be invested as hereinafter mentioned, or the stocks, funds, or securities authorized to be transferred or deposited in lieu thereof as hereinafter mentioned, shall there remain until the same, with all interest and dividends, if any, accrued thereon, shall be paid out of such bank, in pursuance of the provisions of this act: Provided always, that in case any such director or person, directors or persons having the management of any such proposed work or undertaking as aforesaid, shall have previously invested in the three per centum consolidated or the three per centum reduced bank annuities, exchequer bills or other government securities, the sum or sums of money required by any such standing order of either House of Parliament as aforesaid to be deposited by the subscribers to any work or undertaking which is to be executed under the authority of an act of Parliament, it shall be lawful for the person or persons named in such warrant or order, or the survivors or survivor of them, to deposit such exchequer bills or other government securities in the bank mentioned in such warrant or order in the name and with the privity of the officer or person in whose name such sum shall by such warrant or order be directed to be paid, or to transfer such government stocks or funds into the name of the officer or person; and such transfer or deposit shall be directed by such clerk of the office of the clerk of the Parliaments, or such clerk of the private bill office of the House of Commons, as the case may be, in lieu of payment of so much of the sum of money required to be deposited as aforesaid as the same exchequer bills or other the government stocks or funds will extend to satisfy at the price at which the same were originally purchased by the said person or persons, director or directors as aforesaid, such price to be proved by production of the broker's certificate of such original purchase.

If money previously invested in government securities such securities to be deposited.

Investment
of deposit.

4. And be it enacted, That if the person or persons named in such warrant or order, or the survivors or survivor of them, desire to have invested any sum so paid into the bank of England or the bank of Ireland, or any interest or dividend which may have accrued on any stocks or securities so transferred or deposited as aforesaid, the court in the name of whose accountant-general the same may have been paid may, on a petition presented to such court in a summary way by him or them, order that such sum or such interest or dividends shall, until the same be paid out to the parties entitled to the same in pursuance of this act, be laid out in the three per centum consolidated or three per centum reduced bank annuities, or any government security or securities, at the option of the aforesaid person or persons. or the survivor or survivors of them

Repayment
of deposit.

5. And be it enacted, That on the termination of the session of Parliament in which the petition or bill for the purpose of making or sanctioning any such work or undertaking shall have been introduced into Parliament, or if such petition or bill shall be rejected or finally withdrawn by some proceeding in either House of Parliament, or shall not be allowed to proceed, or if the person or persons by whom the said money was paid or security deposited shall have failed to present a petition, or if an act be passed authorizing the making of such work or undertaking, and if in any of the foregoing cases the person or persons named in such warrant or order, or the survivors or survivor of them, or the majority of such persons, apply by petition to the court in the name of whose accountant-general the sum of money mentioned in such warrant or order shall have been paid, or such exchequer bills, stocks, or funds shall have been deposited or transferred as aforesaid, or to the court of exchequer in Scotland, in case such sum of money shall have been paid in the name of the said Queen's remembrancer, the court in the name of whose accountant-general or Queen's remembrancer such sum of money shall have been paid, or such exchequer bills, stocks, or funds shall have been deposited or transferred, shall by order direct the sum of money paid in pursuance of such warrant or order, or the stocks, funds, or securities in or upon which the same may have been invested, and the interest or dividends thereof, or the exchequer bills, stocks, or funds so deposited or transferred as aforesaid, and the interest and dividends thereof, to be paid or transferred to the party or parties so applying, or to any other person or persons whom they may appoint in that behalf; but no such order shall be made in the case of any such petition or bill being rejected or not

being allowed to proceed, or being withdrawn or not being presented, or of an act being passed authorizing the making of such work or undertaking, unless upon the production of the certificate of the chairman of committees of the House of Lords with reference to any proceeding in the House of Lords, or of the Speaker of the House of Commons with reference to any proceeding in the House of Commons, that the said petition or bill was rejected or not allowed to proceed, or was withdrawn during its passage through one of the Houses of Parliament, or was not presented, or that such act was passed, which certificate the said chairman or Speaker shall grant on the application in writing of the person or persons, or the majority of the persons named in such warrant, or the survivor or survivors of them: Provided always, that the granting of **Proviso.** any such certificate, or any mistake or error therein or in relation thereto, shall not make the chairman or Speaker signing the same liable in respect of any monies, stocks, funds, and securities which may be paid, deposited, invested, or transferred in pursuance of the provisions of this act, or the interest or dividends thereof.

9 & 10 VICT. cap. 57.

An Act for regulating the Gauge of Railways.

[18th August, 1846.]

WHEREAS it is expedient to define the gauge on which Preamble.
railways shall be constructed.

1. Be it enacted by the Queen's most excellent Majesty, On what
by and with the advice and consent of the Lords spiritual and gauge rail-
temporal, and Commons, in this present Parliament assem- ways shall
bled, and by the authority of the same, That after the be made.
passing of this act it shall not be lawful (except as herein-
after excepted) to construct any railway for the conveyance
of passengers on any gauge other than four feet eight inches
and half an inch in Great Britain, and five feet three inches
in Ireland: Provided always, that nothing hereinbefore Proviso.
contained shall be deemed to forbid the maintenance and
repair of any railway constructed before the passing of this
act on any gauge other than those hereinbefore specified,
or to forbid the laying of new rails on the same gauge on
which such railway is constructed within the limits of de-
viation authorized by the several acts under the authority
of which such railways are severally constructed.

2. And be it enacted, That nothing hereinbefore con- Exception
tained shall apply to any railway constructed or to be con- of certain
structed under the provisions of any present or future act railways.
containing any special enactment defining the gauge or
gauges of such railway, or any part thereof, or to any rail-
way which is in its whole length southward of the Great
Western Railway, or to any railway in any of the counties
of Cornwall, Devon, Dorset, or Somerset, for which any
act has been or shall be passed in this session of Parliament,
or to any railway in any of the last-mentioned counties now
in course of construction, or to the two railways severally
to be constructed under the authority of two acts passed in
this session of Parliament, severally intituled "An Act for
making a Railway from the Great Western Railway at
West Drayton to Uxbridge in Middlesex," and "An Act
for making a Railway from the Great Western Railway at
Maidenhead in Berkshire to the town of High Wycombe
in the county of Buckingham;" or to so much of an act
passed in this session, intituled "An Act to authorize cer-
tain Extensions of the Line of the Oxford, Worcester, and
Wolverhampton Railway, and to amend the act relating
thereto, as authorizes the construction of a Branch Railway
from the Oxford, Worcester, and Wolverhampton Railway

to the town of Witney in the county of Oxford ;" or to an act passed or which may be passed in this session of Parliament, "to authorize the construction of a railway from Melin-y-Manach to Rhydydefydd in the county of Glamorgan."

Certain
railways to
be on the
broad
gauge.

3. And be it enacted, That the several railways authorized to be constructed by an act passed in the last session of Parliament, intituled "An Act for making a Railway to be called The South Wales Railway," and by an act also passed in the last session of Parliament, intituled "An Act for making a Railway from Monmouth to Hereford, with branches therefrom to Westbury and to join the Forest of Dean Railway," and by two acts passed in this session of Parliament, severally intituled "An Act for completing the Line of the South Wales Railway, and to authorize the Construction of an Extension and certain Alterations of the said Railway, and certain Branch Railways in connexion therewith," and "An Act for making a Railway communication between the city of Bristol and the proposed South Wales Railway in the county of Monmouth, with a Branch Railway therefrom," shall be constructed on the gauge of seven feet.

Gauge not
to be
altered.

4. And be it enacted, That it shall not be lawful after the passing of this act to alter the gauge of any railway used for the conveyance of passengers.

Provision
as to the
Oxford and
Rugby, and
Oxford,
Worcester,
and Wolver-
hampton
railways.

5. And be it enacted, That nothing hereinbefore contained shall be deemed to affect the provisions of two acts passed in the last session of Parliament, respectively intituled "An Act for making a Railway from the city of Oxford to the town of Rugby," and "An Act for making a Railway from Oxford to Worcester and Wolverhampton," with respect to the gauge on which they are to be formed, or the additional rails which, according to the several provisions of the last two recited acts, are to be or may be laid down and maintained on the railways thereby authorized, or with respect to the powers thereby conferred on the commissioners of her Majesty's privy council for trade and foreign plantations concerning the construction and use of the railways thereby authorized.

Penalty on
company
for con-
structing
railways
contrary to
this act.

6. And be it enacted, That if any railway used for the conveyance of passengers shall be constructed or altered contrary to the provisions of this act, the company authorized to construct the railway, or in the case of any demise or lease of such railway, the company for the time being having the control of the works of such railway, shall forfeit ten pounds for every mile of such railway which shall be so unlawfully constructed or altered, during every day that the same shall continue so unlawfully constructed or

altered; and in estimating the amount of any such penalty any distance less than one mile shall be estimated as a mile.

7. And be it enacted, That, over and above the penalty ^{Railways} hereinbefore provided, if any railway used for the convey- ^{constructed}ance of passengers shall be constructed or altered contrary ^{contrary to} to the provisions of this act, it shall be lawful for the com- ^{this act}missioners of her Majesty's woods, forests, land revenues, ^{may be}works, and buildings, or for the lords of the committee of ^{abated.}her Majesty's privy council for trade and foreign planta-
tions, to abate and remove the same or any part thereof so
constructed or altered contrary to the provisions of this
act, and to restore the site thereof to its former condition.

8. And be it enacted, That all penalties under this act ^{Recovery of} may be recovered from the company liable to pay and make ^{penalties.} good the same, as under the provisions of an act passed in
the last session of Parliament, intituled "An Act for con- ^{8 & 9 Vict}solidating in one act certain provisions usually inserted in ^{c. 20.} acts authorizing the making of railways," a penalty for any
infringement of the last-recited act is recoverable against
a company authorized to construct a railway.

9. And be it enacted, That this act may be amended ^{Act may be} or repealed by any act to be passed in this session of Par- ^{amended}liament.

13 VICT. cap. 21.

An Act for shortening the Language used in Acts of Parliament. [10th June, 1850.]

1. BE it declared and enacted by the Queen's most Acts may excellent majesty, by and with the advice and consent of be altered. the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That every act to be passed after the commencement of this act may be altered, amended, or repealed in the same session of Parliament, any law or usage to the contrary notwithstanding.

2. Be it enacted, That all acts shall be divided into To be dis- sections, if there be more enactments than one, which vided into sections shall be deemed to be substantive enactments, sections. without any introductory words.

3. Be it enacted, That in any act, when any former act Manner in is referred to, it shall be sufficient, if such act was made which acts before the seventh year of Henry the Seventh, to cite referred to the year of the King's reign in which it was made, and are to be where there are more statutes than one in the same year cited. the statute, and where there are more chapters than one the chapter; and if such act referred to was made after the fourth year of Henry the Seventh, to cite the year of the reign, and where there are more statutes or sessions than one in the same year the statute or the session (as the case may require), and where there are more chapters or sections than one the chapter or section or chapter and section (as the case may require), without reciting the title of such act, or the provision of such section, so referred to; and the reference in all cases shall be made according to the copies of statutes printed by the Queen's printer, or to the copies thereof contained in the Reports of the Commissioners of Public Records: provided that where it is only intended to amend or repeal any portion only of such section it shall be necessary still either to recite such portion or to set forth the matter or thing intended to be amended or repealed.

4. Be it enacted, That in all acts words importing the Interpreta- masculine gender shall be deemed and taken to include tion of cer- females, and the singular to include the plural, and the tain words plural the singular, unless the contrary as to gender or for future number is expressly provided; and the word "month" acts. to mean calendar month, unless words be added showing lunar month to be intended; and "county" shall be held

to mean also county of a town or of a city, unless such extended meaning is expressly excluded by words; and the word "land" shall include messuages, tenements, and hereditaments, houses and buildings, of any tenure, unless where there are words to exclude houses and buildings, or to restrict the meaning to tenements of some particular tenure; and the words "oath," "swear," and "affidavit" shall include affirmation, declaration, affirming, and declaring, in the case of persons by law allowed to declare or affirm instead of swearing.

Repealed acts not to be revived. 5. Be it enacted, That where any act repealing in whole or in part any former act is itself repealed, such last repeal shall not revive the act or provisions before repealed, unless words be added reviving such act or provisions.

Repealed provisions how long to remain in force. 6. Be it enacted, That wherever any act shall be made repealing in whole or in part any former act, and substituting some provision or provisions instead of the provision or provisions repealed, such provision or provisions so repealed shall remain in force until the substituted provision or provisions shall come into operation by force of the last made act.

Acts to be deemed public acts. 7. Be it enacted, That every act made after the commencement of this act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such, unless the contrary be expressly provided and declared by such act.

Commencement of act. 8. Be it declared and enacted, That this act shall commence and take effect from and immediately after the commencement of the next session of Parliament.

13 & 14 VICT. cap. 33 [Local].

An Act for regulating legal Proceedings by or against the Committee of Railway Companies associated under the Railway Clearing System, and for other Purposes. [25th June, 1850]

Preamble. WHEREAS for some time past arrangements have subsisted between several railway companies for the transmission without interruption of the through traffic in passengers, animals, minerals, and goods passing over different lines of railway, for the purpose of affording, in respect to such passengers, animals, minerals, and goods, the same or the like facilities as if such lines had belonged to one com-

pany, which arrangements are commonly known as and in this act are designated as "the clearing system," and which arrangements are conducted under the superintendence of a committee appointed by the boards of directors of such several railway companies, which committee is in this act designated "the committee," and the business of such committee has heretofore been and is now carried on at a building appropriated for the purpose in Seymour-street, adjoining the Euston Station of the London and North-western Railway Company: And whereas the clearing system has been productive of great convenience to the public, and of a considerable saving of expense in the transmission of passengers, animals, minerals, and goods over the lines of the several railway companies parties to such association; but considerable difficulty has been experienced in carrying into effect the objects of the association, in consequence of the committee not possessing the power of prosecuting or defending actions or suits, or taking other legal proceedings: And whereas George Carr Glyn Esquire is the present chairman, and Kenneth Morison is the present secretary of the committee: And whereas the purposes aforesaid cannot be effected without the authority of Parliament:

1. May it therefore please your Majesty that it may be enacted; and be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the several companies which at the time of the passing of this act are parties to the clearing system, and every other company which shall in manner hereafter mentioned become party to the same, shall be subject to the provisions of this act.

2. And be it enacted, That if any company which may not be a party to the clearing system shall, by writing sealed with the common seal of such company, request the committee to admit such company to be a party to the clearing system, and the committee shall assent to such request, such company shall from the time of such assent being given, or at such other time as may be specified in the said request, become a party to the clearing system.

3. And be it enacted, That if any company shall, by writing sealed with the common seal of such company, give notice to the committee of the desire of such company to cease to be a party to the clearing system, such company shall, at the expiration of one calendar month from the time when such notice shall be given, or if a more distant time shall be stated in such notice then at the time so stated, cease to be a party to the clearing system.

Committee
may give
company
notice to
retire.

4. And be it enacted, That if not less than two thirds of the committee present at a meeting specially summoned shall, by writing signed by their secretary, or by two members of the committee, give notice to any company that such company shall cease to be a party to the clearing system at a time named in such notice, not being less than one calendar month from the time of giving such notice, such company shall at the time so named cease to be a party to the clearing system.

Appoint
ment of the
committee.

5. And be it enacted, That each company party to the clearing system shall at all times be entitled to be represented on the committee by one delegate appointed by the board of Directors of such company from time to time, such appointment to be certified in writing by the secretary or any two directors of such company: Provided always, that, notwithstanding any company may happen to be unrepresented by a delegate at any meeting, the acts of the committee shall be valid.

Meetings
of the com-
mittee, quo-
rum, &c.

6. And be it enacted, That the committee shall meet at one of the clock in the afternoon of the second Wednesday in the months of March, June, September, and December in every year, or so soon thereafter as a quorum shall be assembled, and at any other times whereof the secretary shall, at the written request of the chairman for the time being, or any two members of the committee, give at least ten days notice in writing to every company party to the clearing system, or the secretary of every such company; and every such meeting may be adjourned from time to time and from place to place as the committee shall think proper; and meetings and adjourned meetings of the committee shall be held at the said building in Seymour-street, except when the committee shall have appointed some other place, and then at such other place; and in order to constitute a meeting of the committee there shall be present at least ten members; and, except where otherwise provided, all questions at every meeting shall be determined by the majority of votes of the committee present, and in case of an equal division of votes the chairman of the meeting shall have a casting vote, in addition to his vote as one of the committee; and notice of the business to be brought before any meeting shall, at least six days before the day of such meeting, be given to every company party to the clearing system, or the secretary of every such company.

Appoint-
ment of the
chairman.

7. And be it enacted, That until the first meeting of the committee which shall be held after the passing of this act the said George Carr Glyn, or other the chairman of the committee for the time being, shall continue in office; and at the first meeting of the committee which

shall be held after the passing of this act, and in the month of March in each succeeding year, the committee present at the meeting shall, if they think fit, either continue in office the chairman for the time being, or choose another chairman; and a general meeting of the committee specially summoned shall have power to remove any chairman; and if any chairman shall die, or resign, or be removed, the committee shall have power, as soon as may be, to choose some other person to fill the vacancy thereby occasioned; but every chairman elected to supply a vacancy other than at a general meeting in the month of March in any year shall continue in office so long only as the person in whose place he shall be so elected would have been entitled to continue if such death, resignation, or removal had not happened: Provided always, that it shall not be necessary that the person chosen as chairman be a delegate of any of the companies parties to the clearing system; but in case he shall not be a delegate he shall not be entitled to vote on any question, unless in the case of an equality of votes, when he shall be entitled to give the casting vote.

8. And be it enacted, That if at any meeting of the Temporary committee the chairman shall not be present the chairman. committee present shall choose one of their members to be chairman of such meeting.

9. And be it enacted, That the said Kenneth Morison Appoint- shall be the secretary to the committee until he die, or ment of resign, or be removed; and that the committee shall have secretary. the power to remove him and all future secretaries; and that in the event of the resignation, or death, or such removal as aforesaid of any secretary, the committee shall appoint a secretary to the committee.

10. And be it enacted, That the committee may from Appoint- time to time appoint a treasurer, and remove such trea- ment of surer from his appointment, and prescribe and alter the treasurer. duties of the office of treasurer, and take from the treasurer such security as they shall think fit, which security may be taken in the name or names of such person or persons as the committee approve of.

11. And be it enacted, That any money which shall be Monies re- received by the committee shall be held by the committee ceived by as trustees for the company or companies to whom the committee. committee shall decide such money to be payable; but no member of the said committee shall be answerable for any such money as may be lost or withheld by reason of the misconduct, default, or insolvency of the treasurer, or of any banker or agent in whose hands the same may be, or by reason of any cause other than the personal misconduct of such member.

Accounts to be settled, and balance ascertained and declared by the committee.

12. And be it enacted, That the accounts of the clearing system, and the balances due to and from the several companies parties thereto, shall be settled and adjusted by the secretary of the committee for the time being, which secretary shall also settle and determine the amount to be from time to time contributed to the funds of the clearing system by the companies parties thereto; and in case of any difference respecting such accounts the decision of the committee, to the effect that any balance or sum is payable by any company then or theretofore party to the clearing system, shall be final and conclusive, and such sum or balance shall be a debt due to the said committee.

Expenses to be paid out of the funds of the clearing system.

13. And be it enacted, That the committee shall, out of the funds of the clearing system, pay all the expenses of the clearing system, and all costs, charges, damages, and expenses which the members of the committee, or any or either of them, shall as such members or member, or which the secretary as nominal plaintiff or defendant, or other party, on behalf of the committee, bear, sustain, or be put to, and that the members of the committee and secretary shall be completely indemnified and saved harmless out of the funds of the clearing system, and by the companies parties to the clearing system, of, from, and against all action and actions, suit and suits, proceeding and proceedings, of any sort, costs, charges, damages, and expenses, to which they or any or either of them may in any way be subjected, as members or member of the committee, by reason of anything which they or he may *bonâ fide* do or omit to do, whether such deed or omission be within their powers or not.

Committee may sue for balances or sums due.

14. And be it enacted, That the committee may, by action of debt in the name of their secretary, recover from any company any balance or sum which such committee shall decide to be payable by such company, whether to any other company or on account of the clearing system, and whether such company be still at the time of such decision or has then ceased to be a party to the clearing system, and whether such sum or balance shall or shall not have been previously ascertained by the secretary to be payable.

Form of action.

15. And be it enacted, That the declaration for the recovery of such sum or balance may be in the form or to the effect of the form given in the schedule (A.) to this act annexed, and that the directions contained in the said schedule for the use of the same shall be taken as part of this act.

Evidence.

16. And be it enacted, That if the defendants in such action shall plead that they never were indebted, then, on proof, that the committee decided the sum in question to be payable by the defendants, and that the defendants were either at the time of such decision or at some previous time

a party to the clearing system, and in the latter case upon further proof that such sum was decided to be payable in respect of some transactions, matters, or expenses which happened or were sustained whilst the defendants were parties to the clearing system, the plaintiff shall be entitled to a verdict on that plea.

17. And be it enacted, That the defendants in such **Plea.** action may plead any matter showing that they have since the time of the decision discharged the sum or balance so decided to be payable, and shall not plead any plea with a plea denying the plaintiff to be secretary.

18. And be it enacted, That the committee shall cause **Entries in books.** notes, minutes, or copies, as the case may require, of all appointments made or contracts entered into by them, and of the orders and proceedings of all their meetings, to be duly entered in books to be kept by them for that purpose; and every such entry shall be signed by the chairman of the meeting at which such appointments, contracts, orders, or proceedings respectively took place, who shall add the word "Chairman" to his signature, and which entries may be made and signed either at or after the meetings to which they respectively relate; and every entry purporting to be so signed shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such respective meetings having been duly convened or held, or of the persons making or entering such orders or proceedings being members of the committee, or of the signature of such chairman, or of the fact of his having been chairman, all which last-mentioned matters shall be presumed, till the contrary be proved.

19. And be it enacted, That on the trial of any such **Books to be** action, after it is proved to the satisfaction of the court or evidence, judge trying the cause that such company is or had once and com- been such a party, the books kept by the committee shall mittee and be *primâ facie* evidence of the truth of the matters therein secretary stated and contained: and the secretary, although the witnesses. nominal plaintiff, and the members of the committee, shall be competent witnesses, either for the plaintiff or for the defendants.

20. And be it enacted, That the committee may in all **Committee** cases sue and be sued in the name of the secretary to the may sue or committee; and that in all proceedings at law and in be sued in equity, and in bankruptcy, or of any other sort, whether the name civil or criminal, the name of the secretary may be used of their instead of the names of the members of the committee; and secretary. proofs, in cases of bankruptcy, insolvency, or in winding-up affairs, may be made by the secretary for the committee.

21. And be it enacted, That in any indictment or **In criminal** information for any felony or misdemeanor wherein it proceed shall be necessary to state the ownership of any property ings pro-

perty of
committee
to be
deemed the
property of
secretary.

whatsoever, whether real or personal, and the same shall either belong to the committee or be in their custody, or in the custody or possession of any officer, clerk, or servant of the committee, or of any person employed for the purpose or in the capacity of clerk or servant by the committee, or in or on any building or land used for the purposes of the clearing system, or shall be used or intended to be used for the purposes of the clearing system, it shall be sufficient to state such property to belong to the secretary of the committee.

Criminal
proceed-
ings to be
prosecuted
in name of
secretary.

22. And be it enacted, That in any indictment for embezzlement, wherein it shall be necessary to state the party charged with the embezzlement to have been the clerk or servant of some master or masters, or to have been employed for the purpose or in the capacity of clerk or servant by some master or masters, and such masters shall have been the committee, it shall be sufficient in such indictment to name the secretary of the committee in every place in such indictment where the names of the members of the committee would but for this enactment be required to be inserted.

Service of
notices.

23. And be it enacted, That every notice or requisition on the business of the clearing system, or given pursuant to this act, shall be sufficient if it be in writing signed by the secretary of the committee, or secretary or other officer of the company giving the same, and if it be sent by the general post addressed to the secretary of the company for whom the same is intended, in case such notice or requisition be intended for any company, or to the secretary at the principal office of the clearing system, in case such notice or requisition be intended for the committee; and proof of such notice or requisition being deposited in any public letter box or receiving house for letters, intended to be forwarded by the general post, shall be deemed proof of the due service of such notice or requisition; and notices or requisitions for each member of the committee shall be sufficient if sent in manner aforesaid, addressed to him at the principal office of the company whom he represents.

Mode in
which the
companies
and com-
mittee are
to be de-
scribed in
legal pro-
ceedings.

24. And be it enacted, That in all pleadings or proceedings, civil or criminal, when it shall be required to mention all the companies parties to the clearing system, or the committee, it shall be sufficient to mention the companies by the description of "The Companies Parties to the Clearing System mentioned in the Railway Clearing Act, 1850," and to describe the committee by the description of "The Clearing Committee mentioned in the Railway Clearing Act, 1850," without stating the names of the individual companies and members.

25. And be it enacted, That in all cases where the name of the secretary to the committee shall be used under the authority of this act, it shall be sufficient to name and describe him, and to state the authority for using his name, as in the form of declaration in schedule (A.)

Description of the secretary in legal proceedings.

26. And be it enacted, That upon the death or removal of any secretary no action or suit or other proceeding pending in his name, as plaintiff or defendant or otherwise, either on behalf of or against the committee, shall abate or be stayed, but as soon as another secretary shall be appointed the name of such new secretary shall be thereafter used: and in an action at law such name shall, whether it be before or after judgment, be introduced by suggestion, to which no plea or demurrer shall be allowed; and the omission to make such suggestion, and an erroneous suggestion, shall be mere irregularities, and shall, on the application of the committee or of the party opposed to the committee, be rectified, but shall not otherwise be taken advantage of.

Actions, &c. not to abate on death or removal of secretary.

27. And be it enacted, That all the costs, charges, and expenses of obtaining and passing this act or incident thereto shall be paid by the said committee out of the first monies which shall come to their hands after the passing of this act.

Expenses of act.

28. And be it enacted, That this act may be called "The Railway Clearing Act, 1850," and shall be deemed to be a public act, and as such shall be judicially noticed

Title of act.

SCHEDULE A.

to wit. } *A.B.*, Secretary to the Clearing Committee
and now named by virtue of the Railway Clearing Act, 1850, by *C.D.* his attorney, complains of *X.Y.*, who have been summoned to answer the said *A.B.* in an action of debt, for that the Clearing Committee have decided that the sum of 100*l.* is payable by the defendants, as parties to the clearing system, by means whereof an action has accrued to the said committee to demand in the name of their secretary the said sum of 100*l.*, yet the defendants have not paid the same to the damage of the said committee of 10*l.*, and thereupon the plaintiff, by virtue of the said act, brings suit.

Schedule.

Directions for using the above Form.

Substitute for A.B. the Name of the Secretary, and for C.D. the Name of his Attorney, and for X.Y. the Name of the Company Defendant, and for the sums such sums as the case may require, and add the venue. Several counts may be inserted on the above model where several sums are sought to be recovered.

13 & 14 VICT. cap. 83.

An Act to facilitate the Abandonment of Railways, and the Dissolution of Railway Companies, in certain Cases. [14th August, 1850.]

Preamble. WHEREAS divers Joint Stock Companies have been incorporated by Act of Parliament for making railways, and it has been found that such railways, or certain parts thereof, cannot be made or carried on with advantage either to the promoters thereof or to the public, and it is expedient, therefore, that facilities should be given for the abandonment of such railways or parts of railways, and for the dissolution of such companies, or some of them, and winding up the concerns thereof:

Application to Board of Trade to be allowed to abandon undertaking. 1. Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any company authorized by Act of Parliament heretofore passed to make a railway desire that the making and carrying on of such railway or some part thereof, whether commenced or not, be abandoned, such company may, by the authority and with the consent of the holders of three-fifths of the shares or stock of such company, represented in manner hereinafter mentioned at a general meeting of shareholders to be convened in manner hereinafter mentioned, make application in writing to the *commissioners of railways*, setting forth the particulars of the railway or portion of the railway desired to be abandoned by them, and the grounds upon which such application is made.

"Board of Trade," see 14 & 15 Vict. c. 64, s. 1.

Directors may call meeting. 2. And be it enacted, That it shall be lawful for the directors of any such railway company at any time to call a meeting of the shareholders thereof for the purpose of determining whether such application shall be made to the *commissioners of railways*, and so from time to time as they shall see fit.

"Board of Trade."

Shareholders may require directors to call meeting. 3. And be it enacted, That it shall be lawful for any number of shareholders of any such company, not being less than five, and holding in the aggregate not less than one-twentieth of the capital or stock of the company, consisting of shares or stock whereon all calls for the time being have been paid up, but exclusive of any shares or stock held by or in the names of the directors of the com-

pany or any of them, or by or in the name of any person in trust for the directors or any of them, or for the company, and which shareholders shall have paid all the calls then due on the shares held by them, by writing under their hands to require the directors of such company to call a meeting for the purpose aforesaid; and upon the receipt of any such requisition such directors shall forthwith proceed to call a meeting of the shareholders of such company on a day to be named by them, not being less than fourteen nor more than twenty-eight days after the receipt of such requisition: Provided always, on the default of the directors to call and advertise such meeting within fourteen days after the receipt of the requisition, it shall be lawful for the requisitionists to call such meeting themselves, at a time and place to be appointed by them, of which fourteen days' notice shall be given by them by advertisement as hereinafter provided: Provided also, that when any meeting of any such company shall have been called pursuant to any such requisition as aforesaid, the directors of such company shall not be required to call any further meeting of such company upon any further requisition for the like object until twelve months shall have elapsed since the holding of such previous meeting.

4. And be it enacted, That after any such meeting has been called by the directors, or after the receipt of any such requisition as aforesaid, it shall not be lawful for the directors to make any payments out of the moneys of the company for the purposes of the railway proposed to be abandoned, except in discharge of *bonâ fide* debts or liabilities, or in performance of contracts or engagements previously entered into, and in payment of the expenses of calling and holding such meeting, nor to enter into any contracts or engagements on behalf of the company with respect to the railway so proposed to be abandoned, nor to make any calls, nor to register the transfer of any shares, until the meeting called as aforesaid shall have determined whether such application shall be made.

5. And be it enacted, That the calling of any such meeting shall be by public advertisement in the manner required or usually adopted for advertising the extraordinary general meetings of such company, and where such meeting is called by the directors of the company a circular letter shall be sent by the post addressed to each of the registered shareholders of such company, according to his registered address or other known address, seven clear days at least before the holding of such meeting, and stating that a general meeting of the shareholders of such company will be held at a time and place mentioned in such circular, for the purpose of determining whether

After receipt of requisition, directors not to make any payments, &c.

Mode of calling meeting, and signifying the consent of the shareholders to the application.

application shall be made to the commissioners of railways that such railway or the part thereof specified in such notice may be abandoned, and requesting such shareholder to signify his assent to or dissent therefrom, which may be according to a form to be contained in such circular letter, which form shall be to the effect set forth in the schedule hereto, and such circular letter shall request such shareholder either to return such form, signed by him, in a letter addressed to the secretary of such company, or to attend such general meeting as aforesaid, and deliver the same, so signed by him, to the chairman thereof; and in the case of every such meeting, whether called by the directors or by such requisitionists as aforesaid, the shareholders may signify their assent to or dissent from the proposed application, either by attending such meeting in person or by letter addressed to the secretary of the company, stating the assent or dissent of such shareholders, in a form which shall be to the effect of the form set forth in the schedule hereto, and signed by such shareholders respectively.

The number of the shareholders assenting or dissenting to be ascertained by scrutineers, and reported to the chairman.

6. And be it enacted, That at the meeting so to be called as aforesaid the scrutineers to be appointed as hereinafter mentioned shall cast up the amount of shares held by shareholders assenting to the making of such application, and the amount of shares held by shareholders dissenting therefrom, whether such assent or dissent have been signified by the shareholder sending to the secretary of the company such form as aforesaid, signed by him, or by such shareholder attending such meeting, and delivering in the same to the chairman thereof, and such scrutineers shall report to the chairman the amount of shares of the shareholders assenting to such application, and the amount of the shares of those dissenting therefrom, and the said chairman shall thereupon publicly announce to the meeting the said amounts respectively, and shall state whether or not the holders of three-fifths of the whole of such shares represented in manner aforesaid at the meeting consent to such application: Provided always, that in computing the amount of shares of the shareholders assenting or dissenting as aforesaid no share shall be taken into account the holder whereof shall not have been duly registered, or who shall not have paid all the calls then due by him upon all the shares held by him, unless such calls shall have been made within three months prior to the holding of such meeting, or if such meeting be held pursuant to a requisition of shareholders as hereinbefore provided, then three months prior to the day on which such requisition was presented to the directors.

7. And be it enacted, That the chairman of the directors of such company, if present, or in his absence the deputy chairman, if any, of such directors, shall be the chairman of such meeting as aforesaid, or if neither such chairman nor deputy chairman of the directors be present, any shareholder chosen for that purpose by a majority of the shareholders present at the meeting shall be the chairman thereof.

8. And be it enacted, That at every such meeting the shareholders present thereat shall elect three shareholders of the company to be scrutineers for the purposes aforesaid, and in electing such scrutineers each shareholder shall have one vote only, and shall vote for one scrutineer only; and the decision of such scrutineers, or of any two of them, upon any of the matters hereby intrusted to them, shall be final in all respects.

9. And be it enacted, That for the purpose of receiving the report of the said scrutineers the chairman of such meeting may, if he think fit, on the application of any one of such scrutineers, and he shall, if required by more than one of such scrutineers, adjourn such meeting to some time to be appointed by him, not less than one clear day nor more than seven clear days from the day of holding such meeting.

10. And be it enacted, That a certificate under the hand of the chairman of the meeting, stating that such meeting as aforesaid has been duly held, and such consent given as aforesaid in cases where the same is given, shall within one week after the day of holding such meeting be deposited in the office of the said commissioners of railways.

11. Provided always, and be it enacted, That if it appear to any of the shareholders of any such company who shall have signed any such requisition, or been present at any such meeting as aforesaid at which the proposal to apply to the said commissioners to authorize the abandonment of the whole or part of a railway shall have been negatived or alleged to be negatived, either that such meeting was not duly called, or that the sense thereof was not duly taken according to the true intent and meaning of this act, and that if such meeting had been duly called, and the sense thereof duly taken, the consent of such meeting to the proposed application would have been given, it shall be lawful for any such shareholders not being less in number than five, and holding in the aggregate not less than one-twentieth of the capital or stock of the company, consisting of shares or stock whereon all calls for the time being have been paid up, and which shareholders shall have paid all the calls then due on the

Chairman
of the
meeting.

Meeting to
elect scru-
tineers.

Adjourn-
ment of
meeting on
application
of scruti-
neers.

Certificate
of the
chairman
to be evi-
dence.

Sharehold-
ers desiring
abandon-
ment, and
complain-
ing that the
sense of the
company
has not
been fairly
ascertained
may apply
to the Com-
missioners.

shares held by them, to apply to the said commissioners, setting forth in writing the grounds on which they complain of the decision alleged to have been come to at such meeting as aforesaid, and praying that a further meeting may be called, and if it appear to the said commissioners (after hearing the parties complained of, if they desire to be heard) that there is good reason to believe that if such meeting had been duly called, and the sense thereof duly taken, the consent of such meeting to the proposed application to the said commissioners would have been given, the said commissioners shall certify their judgment to that effect, and shall direct a further meeting to be called by the directors of such company at the time and place to be appointed by the said commissioners, and the said directors shall call such meeting accordingly, or in default thereof it shall be lawful for the shareholders who complained to the said commissioners of the proceedings of the former meeting to call such meeting, and all the provisions of this act shall apply to any further meeting so directed to be called in like manner as to any original meeting hereinbefore authorized or required to be called.

If meeting determine that application shall be made, directors not to proceed meanwhile.

12. And be it enacted, That if at any such meeting any railway company shall determine, as hereinbefore mentioned, that such application as aforesaid shall be made, or if the said commissioners shall certify as aforesaid their judgment, that if such meeting had been duly called and the sense thereof duly taken the consent of such meeting to the proposed application to the said commissioners would have been given, then, as from the date of the resolution so come to at such meeting, or the date of the said certificate, as the case may be, the directors of such company shall not have power to proceed any further with the making of the railway, or the part thereof so proposed to be abandoned, until the decision of the commissioners of railways with respect to such application be made, and then only in accordance with such decision.

Commissioners of railways to direct advertisements of application.

13. And be it enacted, That if it appear to the said commissioners that there are sufficient grounds for entertaining such application, the said commissioners shall require and direct the company making the same to give notice of such application having been made, by advertisement inserted, in a form to be approved of by the said commissioners, once in the London, Edinburgh, or Dublin Gazette, according as the railway or part of the railway proposed to be abandoned is situate in England, Scotland, or Ireland, and once in each of three successive weeks in some newspaper published or circulating in each county in which any part proposed to be abandoned of such rail-

way is situated, and affixed for three successive Sundays on the principal outer door of the church or churches of every parish in which any part of such railway where the whole is proposed to be abandoned, or in which any part proposed to be abandoned, is situate, and in Ireland such notice shall also be affixed to the Roman Catholic Chapel, and where there shall be no such church or chapel on some public or conspicuous place of such parish; and every such notice shall set forth within what time and in what manner any person who thinks himself aggrieved by any such proposed abandonment, and who desires to object thereto, may bring such objection before the commissioners.

14. And be it enacted, That, for the purpose of ascertaining the state and condition of the company making any such application, and of inquiring into the expediency of the proposed abandonment of railway, and of determining the terms and conditions on which the same may be authorized by them, it shall be lawful for the commissioners of railways, by themselves or by any officer appointed and specially empowered by them for that purpose, to inspect the books of accounts, minutes of proceedings, or any other books, papers, or documents in the possession or control of such company, and also, if they see fit so to do, to send, at the expense of such railway company, or at the expense of any person who applies to them for that purpose, an officer to be appointed by them to inspect the railway or proposed railway or work so proposed to be abandoned, and to collect evidence on the spot relative to such abandonment; and if any such company, or any of their officers or servants, shall refuse such inspection by the said commissioners, or any officer appointed and specially empowered by them for that purpose, or refuse or wilfully neglect to produce to the said commissioners or any such officer, on demand, any books, papers, or documents in the possession or control of such company, every such company shall for every such refusal or neglect forfeit to her Majesty the sum of twenty pounds, and a further sum of five pounds for every day during which such refusal or wilful neglect shall be continued.

15. And be it enacted, That upon proof to the satisfaction of the said commissioners that such notice has been duly given, and after the expiration of the time therein appointed for bringing objections before the said commissioners, and after considering all the objections, if any, brought before them, the said commissioners may, if they think fit, and upon such terms and conditions as they think fit, by warrant under their seal, and signed by two

Commissioners to have power to inspect the company's books and other documents, and to send an officer for local inspection.

Commissioners may by warrant authorize the abandonment of railway.

or more of the said commissioners, authorize the abandonment of the railway or portion of railway described in such warrant.

In considering objections of shareholders to partial abandonment, Commissioners to have regard to local circumstances.

Power to reduce or cancel the shares of the objectors in certain cases.

Abandonment of railway to be advertised, and demands on the company for compensation to be sent in.

16. Provided always, and be it enacted, That in considering the objections which may be made by any of the shareholders of any railway company to the proposed abandonment of a part only of the railway of such company, and in determining the terms and conditions on which the said commissioners may think fit to authorize any such partial abandonment, the said commissioners shall have regard to the local situation of the lands and residences of the shareholders so objecting with reference to the portion of railway proposed to be abandoned; and in the case of any such shareholders being original subscribers to the undertaking, and not being solicitors, agents, or engineers employed in promoting the same, and whose places of residence or lands are adjoining or near the line of the portion of railway so proposed to be abandoned, it shall be lawful for the said commissioners, if they think fit so to do, in any direction which (under the provision hereinafter contained) they may give for reducing the capital of the company authorized to construct such railway, to provide, at the request of any such last-mentioned shareholders, that the nominal amount of the shares held by them in such company may be reduced to the amount then already paid up by them respectively, or to such other extent as the said commissioners may think fit to order in that behalf, or the said commissioners may, at the like request, direct any such shares to be cancelled, and a part of the moneys that may have been paid up in respect of such shares, bearing such proportion to the whole as the said commissioners having regard to all the circumstances of the case shall think fit to determine, to be repaid to such shareholders.

17. And be it enacted, That within one month after the day on which any such warrant as aforesaid is granted by the said commissioners the railway company to which the same applies shall cause notice thereof to be inserted in the London, Edinburgh, or Dublin Gazette, according as the railway or part of railway mentioned therein is situate in England, Scotland, or Ireland, and once in each of three successive weeks in some newspaper published or circulating in each county in which any part of such abandoned railway is situate, and to be affixed for three successive Sundays on the principal outer door of the church or churches of every parish in which any such part of such railway is situate, and in Ireland such notice shall also be affixed to the Roman Catholic Chapel, and where there shall be no such church or chapel, on some public or conspicuous place of such parish; and every

such notice shall require all persons having any claims or demands upon the said company for compensation or otherwise, by reason of the abandonment of railway authorized by such warrant, to transmit the statement of such claims or demands to the secretary of such company, at the office or usual place of business of the same company, within four months from the date of such warrant.

18. And be it enacted, That, upon proof to the satisfaction of the said commissioners that notice of such warrant has been duly published in manner hereinbefore required, the said commissioners shall certify the same accordingly; and such certificate shall be received in all courts of justice or elsewhere as evidence that such notice was duly published as aforesaid.

Commissioners to certify publication of notice of warrant.

19. And be it enacted, That after the granting of any such warrant, and the publication of such notice thereof as aforesaid, the company shall (subject to the provisions hereinafter contained) be released from all liability to make, maintain, or work the railway mentioned in such warrant, or the part thereof thereby authorized to be abandoned, or to purchase any of the lands required for the making thereof, or to complete the purchase of any such lands for the purchase of which notice may have been given, or any contract entered into, by or on behalf of the company, or to complete any contract for or concerning the making, maintaining, or working of the railway so to be abandoned, or any other contract relating to the railway or part of railway so authorized to be abandoned which by reason of such abandonment cannot be performed: Provided always, that nothing in this act contained shall extend to release the company from any liability to complete the purchase of any land for the purchase of which any contract may have been entered into by or on behalf of the company, and which contract may have been in part performed, or by virtue or in pursuance of which a specified sum or price as the consideration for the purchase of the lands thereby agreed to be sold to or taken by the company shall have been fixed or ascertained previously to the passing of this act, notwithstanding the time for the completion of the purchase named in such contract shall have been subsequently extended by agreement or arrangement with the company.

After the granting of warrant the company to be released from liability to make the railway.

20. Provided always, and be it enacted, That in every case in which before the granting of any such warrant any notice hath been given or contract entered into by or on behalf of the company named therein for purchasing any lands which such company were by the acts relating thereto empowered to purchase for the purpose of constructing the railway or portion of railway so authorized

Compensation to be made where contracts have been entered into or notice given.

to be abandoned, and from which contract such company would be relieved under the provisions hereinbefore contained, or where any contract hath been entered into for or concerning the constructing, maintaining, or working of the railway or part of railway so authorized to be abandoned, or any other contract relating thereto, which by reason of such abandonment cannot be performed, the company shall make to the owners or occupiers of and other parties interested in such lands, or being parties to such contracts as aforesaid, compensation, to be determined by arbitration as hereinafter mentioned, for all injury or damage, if any, sustained by such owners, occupiers, and other parties by reason of such purchase not being completed pursuant to such notice, or by reason of such contract not being performed.

Compensation to adjoining landowners in lieu of accommodation works.

21. And be it enacted, That where any railway or part of a railway so authorized to be abandoned shall have been then made or commenced, such company shall make to the owners and occupiers of the lands adjoining the railway or part of a railway so commenced or made, and authorized to be abandoned, compensation, to be determined by arbitration as hereinafter mentioned, for all such injury or damage, if any, as shall be sustained by such owners or occupiers by reason of the omission to make gates, passages, drains, watercourses, bridges, and such other works, for the accommodation of lands adjoining the railway, as such company would have been required to make if such railway had not been allowed to be abandoned.

Company to make compensation, in lieu of keeping bridges, &c. in repair, except where the road is restored to its former state.

22. And be it enacted, That where the line of any railway so authorized to be abandoned shall have been wholly or partially laid out, and any road shall have been carried across such line of railway by means of a bridge or tunnel over or under such railway, which bridge or tunnel the company to whom such railway belonged would, in case the same had not been abandoned, have been liable to keep in repair, then in every such case, except where such bridge or tunnel shall, with the permission of the said commissioners, be by such company removed, and such road restored to the like or an equally convenient and good state as the same was in before it was interfered with by the makers of such railway, to the satisfaction (in case of difference between such company and the owner or persons having the management of such road) of the commissioners of railways, such company shall pay to the owner of such road, if it be a private road, or to the trustees, surveyors of highways, or other persons having the management of such road, if it be a turnpike or other public road, a sum of money, to be determined

by arbitration as after mentioned, in lieu and discharge of their liability to keep such bridge or tunnel, and also the roadway over the same, in repair.

23. And be it enacted, That every sum so to be paid as last aforesaid to such trustees, surveyors, or other persons as aforesaid shall be by them forthwith paid over to the treasurer of the county where the bridge or tunnel in respect of which such sum was paid is situate, and shall be by him invested in consolidated bank annuities or other public securities, and the dividends or income thereof shall, until Parliament shall otherwise provide, be applied in the maintenance of the bridge or tunnel in respect whereof the same was paid, in such manner as the justices in quarter sessions having jurisdiction where such bridge or tunnel is situate shall order.

Compensation to trustees and overseers of public roads, how to be applied.

24. And be it enacted, That every sum so to be paid as last aforesaid in Scotland to such trustees or other persons as aforesaid shall be by them paid into bank, and the interest to arise thereon shall, until Parliament shall otherwise provide, be applied in the maintenance of the bridge or tunnel in respect whereof the same was paid, in such manner as the sheriff of the county in which such bridge or tunnel is situate, in case of any difficulty arising, shall direct.

Application of monies paid.

25. And be it enacted, That the amount of the compensation so to be made in the several cases aforesaid shall be determined, in case of difference, by arbitration, in the manner provided by the Railways Clauses Consolidation Act, 1845, or the Railways Clauses Consolidation Act, Scotland, 1845, as the case may require, and for that purpose all the clauses of the said Railways Clauses Consolidation Acts with respect to the settlement of disputes by arbitration shall be deemed to be incorporated with this act: Provided always that no such railway company shall be liable to make any compensation in respect of damage alleged to have been sustained by reason of the abandonment of the railway or part of the railway, or the non-completion of any contract of such company in any of the cases aforesaid, unless the claim for such compensation shall have been made within six months after the publication in the Gazette of the notice of the warrant for such abandonment as hereinbefore provided.

Amount of compensation to be settled by arbitration. Claims for compensation to be made within six months after publication of warrant.

26. Provided also, and be it enacted, That the authority so as aforesaid given for abandoning the making of any such railway or part of a railway shall not prejudice or affect the right of the owner or occupier of any lands to receive from such company compensation for any damage that may have been occasioned by the entry of such company upon such lands, for the purpose of surveying and

Company still liable for damage occasioned by entry on lands.

taking levels, and of probing or boring to ascertain the nature of the soil, or of setting out the line of the railway, pursuant to the provisions for that purpose in the Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Act (Scotland), 1845, contained.

Lands purchased by the railway company to be sold within a limited time.

27. And be it enacted, That all the lands acquired by such company for the purposes of the railway or part of railway so authorized to be abandoned shall be sold by such company within the time limited or prescribed for that purpose in the warrant authorizing the abandonment of such railway, and if no time be therein prescribed for that purpose, then within two years from the date of such warrant, in the manner prescribed by the said Lands Clauses Consolidation Acts with respect to the sale of superfluous lands; and for that purpose all the clauses of the said last-mentioned acts with respect to the lands acquired by the promoters of the undertaking under the provisions of their special act, but which are not required for the purposes thereof, shall be deemed to be incorporated with this act: Provided always, that the offer to be made by the railway company pursuant to the said acts to sell such lands to the person entitled to the lands from which the same were severed shall be made at a price or sum not greater than the price or sum at which such lands were purchased by such company.

Where part of a railway is authorized to be abandoned, the Commissioners may require the capital to be reduced.

28. And be it enacted, That when the said commissioners of railways, by any such warrant as aforesaid, authorize the abandonment of a part only of the railway of any railway company, they may, if they think fit, require that the capital authorized to be raised by such company in respect of such railway shall be reduced to such extent and in such manner as the said commissioners think fit, and so that such reduction do not bear a greater proportion to the whole capital so authorized to be raised than the cost of the part of the railway so authorized to be abandoned would have borne to the cost of the whole railway; and they may also, if they think fit, in like manner reduce the amount which such company are authorized to borrow on mortgage or bond, and every such reduction shall be expressed in the said warrant; and in every such case the capital of such company, and their power of borrowing money, shall be reduced and limited in conformity with the directions for that purpose contained in such warrant; and such company shall have all the same powers for enforcing the payment of calls in respect of the shares in the capital when reduced in the manner required by the said commissioners, and for enforcing the forfeiture of any such shares in default of payment of such calls, as such company would have had in respect

of the original capital of such company if this act had not been passed: Provided always, that nothing herein contained shall authorize the said company to reduce or interfere with any amount of capital paid up or called for before the eleventh day of February one thousand eight hundred and fifty, and entitled to any preferential or guaranteed dividend or interest.

29. And be it enacted, That after the granting of any such warrant as aforesaid for the abandonment of the whole railway of any railway company the powers of such company for the construction, maintenance, and management of such railway shall cease, and such company shall continue to exist only for the purpose of winding up their affairs, and they shall accordingly, subject to the provisions herein contained with respect to the sale of lands acquired by such company for the purposes of their railway, proceed with all convenient speed to collect and to convert into money all their property and effects, and shall in the first place pay and satisfy all their debts and liabilities, and after full payment and satisfaction thereof shall distribute the surplus funds among the shareholders of the company in proportion to their shares and interests therein, and for the purposes aforesaid all the powers of such company shall continue in full force and effect; and when and so soon as the same shall have been fully accomplished such company shall be dissolved, and cease to exist.

30. And be it enacted, that, notwithstanding the provision in the Joint Stock Companies Winding-up Amendment Act, 1849, excepting railway companies incorporated by Act of Parliament from the application of the Joint Stock Companies Winding-up Act, 1848, the said two several acts shall nevertheless apply to any railway company incorporated by Act of Parliament in respect of which an order may have been made by the Court of Chancery for winding up the affairs of such company previous to the passing of the said Joint Stock Companies Winding-up Amendment Act, 1849, and the proceedings for winding up the same shall proceed and be carried on under the said Joint Stock Companies Winding-up Act, 1848, and the said Joint Stock Companies Winding-up Amendment Act, 1849, or either of them.

31. And be it enacted, That where any such warrant as aforesaid shall have been granted for the abandonment of the whole railway of any railway company in England or Ireland, any shareholder of such company may present a petition under the Joint Stock Companies Winding-up Act, 1848, or any act for the amendment of such act, for the winding up of the affairs of such company under the

After warrant for abandonment of whole railway the powers of company to cease, except for winding up.

Provisions of winding-up acts to apply to railway companies in certain cases.

When the whole railway abandoned, shareholders may petition

under the winding-up acts. said act, and for that purpose the railway company whose railway is so authorized to be abandoned shall, if the court shall think fit so to order, (notwithstanding anything to the contrary thereof in the said Joint Stock Companies Winding-up Act, or in the Joint Stock Companies Winding-up Amendment Act, 1849,) be deemed to be a company to which the said act applies.

Court of Session may sequestrate any company whose railway is abandoned. 32. And be it enacted, That where any such warrant as aforesaid shall have been granted for the abandonment of the whole railway of any railway company in Scotland, any shareholder of such company may present a petition to the court of session, praying the said court to sequestrate such company, and it shall thereupon be lawful for the said court to issue a deliverance awarding sequestration of such company, and to appoint a factor, who shall take possession of and recover the estate of such company, and realise and manage the same, for the purposes of this act, and for winding up and distributing the same with due regard to the rights and interests of the creditors and shareholders, and of all others concerned therein.

Court of Session to establish rules for adjustment of claims. 33. And be it enacted, That it shall be competent to the said court to establish, by acts of sederunt to be passed by them, all such rules and regulations as may be necessary in relation to the summary statement, discussion, and adjudication of all claims at the instance of creditors, shareholders, and other parties against such company, and by such rules and regulations to apply, as far as may be practicable and expedient, towards the purposes of this act, the provisions of an act passed in the session of Parliament holden in the second and third years of the reign of her present Majesty, intituled "An Act for regulating the Sequestration of the Estates of Bankrupts in Scotland;" and it shall be competent to the said court so also to establish all such other rules and regulations as may be necessary for carrying fully into effect the purposes of this act.

In case of petition for winding up, landowners to be deemed creditors in respect of compensation. 34. And be it enacted, That in the event of the affairs of any such company being wound up under any such petition, the compensation hereinbefore directed to be given to the owners and occupiers of lands and others in respect of the damage sustained by them by reason of such abandonment in the cases hereinbefore mentioned, or by reason of the non-completion of any such contract as aforesaid, or otherwise, shall be deemed a demand claimed from, and when ascertained in the manner provided by this act a debt due from, such company, and the party by whom such compensation is claimed shall be deemed a

“creditor,” in England or Ireland, within the provisions of the said Joint Stock Companies Winding-up Act, or, in Scotland, within the provisions of the said recited act of the second and third years of the reign of her present Majesty; and in case any lands purchased by such railway company shall be sold by the official manager under the said act, they shall be sold in the manner and subject to the provisions contained in this act.

35. Provided always, and be it enacted, That this act, or any proceeding thereunder, shall not prejudice or affect any action or suit or other proceeding at law or in equity commenced before the eleventh day of February one thousand eight hundred and fifty, or any action or suit brought in connexion with and during the dependence of and involving the same matter with such action or suit, nor any action, suit, or other proceeding against a company which shall not have obtained a warrant authorizing the abandonment of the railway or part of a railway in respect of which such action, suit, or other proceeding shall be instituted, unless such company shall, within three days after notice for that purpose from the party suing them, give such party notice of their intention to apply for such warrant, and shall obtain the same, and serve notice thereof on such party within three calendar months thereafter, but all such actions and suits and other proceedings shall be proceeded with, and judgments recovered, and rules, orders, and decrees made therein shall be enforced, as if this act had not been passed, save only that the same, after notice given by the company of their intention to abandon as aforesaid, shall be suspended for three calendar months, if the warrant be refused, or be not obtained within that time.

Act not to affect actions or suits commenced before 11th Feb. 1850.

36. Provided always, and be it enacted, That nothing in this act contained shall extend or be construed to extend to authorize the abandonment by any company of any railway or portion of a railway, or other works, which such company has agreed under its corporate seal to make and construct, according to any agreement entered into either with any individual or with any other company, unless such individual or company shall consent in writing to such abandonment.

Certain railways not to be abandoned without consent.

37. And be it enacted, That in each case in which the said commissioners authorize the abandonment of the whole or a portion of a railway, they shall, within ten days after issuing their warrant for that purpose, if Parliament be then sitting, or if not, then as soon thereafter as Parliament meets, lay before both Houses of Parliament a copy of every such warrant, accompanied by such

Commissioners to report to Parliament.

report and observations as shall in the judgment of such commissioners set forth and explain the reasons for their award and warrant in every such case as aforesaid.

Interpreta-
tion of
terms.

38. And be it enacted, That the following words and expressions in this act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,) words importing the singular number only shall include the plural number, and words importing the plural number only shall include also the singular number: words importing the masculine gender shall extend to females: the word "person" shall include body corporate: the word "lands" shall include messuages, tenements, and hereditaments: the word "railway" shall include all works, buildings, and undertakings authorized to be constructed or carried on in connexion with the railway or belonging thereto: the word "shares" shall include stock: the word "month" shall mean calendar month.

Short title.

39. And be it enacted, That in citing this act in other acts of Parliament, and in legal and other instruments and proceedings, it shall be sufficient to use the expression "The Abandonment of Railways Act, 1850."

Act may be
amended.

40. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of Parliament.

Schedule referred to by the foregoing Act.

(1.) Name of Railway.	(1.) Name of Shareholder.	(1.) No. and Amount of Shares or Stock held by him.	(2.) Whether as- senting or dissenting.

(1.) The secretary will insert these particulars.

(2.) In this column the shareholder will write the word "assenting" or "dissenting," as the case may be, and sign his name thereunder.

14 & 15 VICT. cap. 19.

An Act for the better Prevention of Offences (so far as relates to Railways). [3d July, 1851.]

6. If any person shall wilfully and maliciously put, place, cast, or throw upon or across any railway any wood, stone, or other matter or thing, or shall wilfully and maliciously take up, remove, or displace any rail, sleeper, or other matter or thing belonging to any railway, or shall wilfully and maliciously turn, move, or divert any points or other machinery belonging to any railway, or shall wilfully and maliciously make or show, hide or remove, any signal or light upon or near to any railway, or shall wilfully and maliciously do or cause to be done any other matter or thing, with intent, in any of the cases aforesaid, to obstruct, upset, overthrow, injure, or destroy any engine, tender, carriage, or truck using such railway, or to endanger the safety of any person travelling or being upon such railway, every such offender shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for the term of his natural life or for any term not less than seven years, or to be imprisoned, with or without hard labour, for any term not exceeding three years.

7. If any person shall wilfully and maliciously cast, throw, or cause to fall or strike against, into, or upon any engine, tender, carriage, or truck used upon any railway, any wood, stone, or other matter or thing, with intent to endanger the safety of any person being in or upon such engine, tender, carriage, or truck, every such offender shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for the term of his natural life or for any term not less than seven years, or to be imprisoned, with or without hard labour, for any term not exceeding three years.

8. If any person shall wilfully and maliciously set fire to any station, engine house, warehouse, or other building belonging or appertaining to any railway, dock, canal, or other navigation, every such person shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for the term of his natural life, or for any term not less than seven years, or to be imprisoned, with or without hard labour, for any term not exceeding three years; and

if any person shall wilfully and maliciously set fire to any goods or chattels being in any building, the setting fire to which is made felony by this or any other Act of Parliament, every such offender shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding ten years, nor less than seven years, or to be imprisoned, with or without hard labour, for any term not exceeding three years.

Offenders
may be ap-
prehended.

10. It shall be lawful for any person whatsoever to apprehend any person who shall be found committing any offence against the provisions of this act, and to convey him or deliver him to some constable or other peace officer, in order to his being conveyed, as soon as conveniently may be, before a justice of the peace, to be dealt with according to law.

Scotland.

16. Nothing in this act shall extend to Scotland.

14 & 15 VICT. cap. 64.

An Act to repeal the Act for constituting Commissioners of Railways. [7th August, 1851.]

Preamble. WHEREAS an act was passed in the session holden in the ninth and tenth years of her Majesty (chapter one hundred and five), for constituting commissioners of railways: And whereas it is expedient that the said act should be repealed, and provision be made for the exercise and performance of the powers and duties which since the passing of the said act have been vested in or imposed on the said commissioners: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Recited
Act repeal-
ed, and
powers, &c.
of commis-
sioners
transferred
to Board of
Trade.

1. From and after the tenth of October one thousand eight hundred and fifty-one the said act shall be repealed, and all powers, rights, authorities, and duties vested in or exercised or performed by the commissioners of railways under any act passed since the passing of the said recited act, or which may be passed during the present session of Parliament, shall be transferred to and vested in and performed by the Lords of the committee of her Majesty's privy council for trade and foreign plantations as if they had been named in such acts instead of the said commissioners; and all proceedings pending before the said commissioners on the said tenth of October, or carried on

under their authority, shall be continued and carried on by and before the Lords of the said committee, who shall have, exercise, and perform the same powers, rights, authorities, and duties in respect of all such proceedings as might have been exercised or performed by such commissioners in case this act had not been passed.

2. It shall be lawful for the Lords of the said committee, with the approval of the commissioners of her Majesty's treasury, to continue, for the transaction of the business transferred to the Lords of the said committee under this act, all or any of the officers and servants appointed by the said commissioners of railways, and from time to time, with such approval, to remove such officers and servants, or any of them. Power to continue officers.

3. Where by any act relating to railways or to any railway the commissioners of railways or the Lords of the said committee are empowered or required to make or issue any appointment, authority, determination, order, requisition, regulation, certificate, or notice, or to do any other act, the Lords of the said committee may, after the said tenth of October, signify such appointment, authority, determination, order, requisition, regulation, certificate, notice, or other act by a written or printed document, signed by one of the joint secretaries of the Lords of the said committee, or by some assistant secretary, or other officer appointed by them to sign documents relating to railways; and every appointment, authority, determination, order, requisition, regulation, certificate, notice, or other act signified by a written or printed document purporting to be so signed as aforesaid, shall be deemed to have been duly made, issued, or done by the Lords of the said committee; and every such document shall be received in evidence in all courts and before all justices and others, without proof of the authority or signature of such secretary or other officer, or other proof whatsoever, until it be shown that such document was not signed by the authority of the Lords of the said committee. Appointments, orders, &c. of the Board of Trade how to be signified.

14 & 15 VICT. cap. 70.

An Act to alter and amend certain Provisions of the Lands Clauses Consolidation Act, 1845, so far as relates to Ireland. [7th August, 1851.]

WHEREAS, on account of circumstances connected with the tenure of land in Ireland, the provisions of the Lands Clauses Consolidation Act, 1845, are found to be unsuited Preamble.

to the existing condition of that country, and it is expedient that some provision should be made for ascertaining the purchase money or compensation to be paid by railway companies in Ireland for the lands required for their undertakings, and for determining differences with respect to the works to be made and maintained by such companies for the accommodation of the owners and occupiers of lands adjoining such railways: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:

Short title. 1. In citing this act in other Acts of Parliament, legal instruments, proceedings at law or in equity, and all other instruments and proceedings whatsoever, it shall be sufficient to use the expression "The Railways Act (Ireland), 1851."

Act to apply to railways in Ireland, with certain exceptions. 2. This act shall apply to every railway in Ireland authorized to be made by any act passed in this session of Parliament, or which shall hereafter be passed, and which shall authorize the purchase or taking of lands for such railway, and also to every railway or portion of a railway in Ireland by any act heretofore passed authorized to be made in relation to which the compulsory powers for taking lands are still in force, and this act shall be incorporated with and form part of the acts authorizing the said undertakings: Provided always, that this act shall not apply to the railways authorized to be made by "The Waterford and Limerick Railway Amendment Act, 1850," "The Dublin and Drogheda Railway Act, 1850," "The Dundalk and Enniskillen Railway Act, 1850," and "The Midland Great Western Railway of Ireland (Deviation and Amendment) Act, 1850," "The Waterford and Limerick Railway Deviation Act, 1851," and "The Killarney Junction Railway Act, 1851," "The Longford Line and Liffy Branch, 13 & 14 Vict.," or to which the provisions of such acts respectively are applicable, and shall not in anywise interfere with or affect the provisions of such acts.

Certain provisions of 8 Vict. c. 18, not to apply. 3. The clauses of "The Lands Clauses Consolidation Act, 1845," with respect to the purchase and taking of lands otherwise than by agreement, except sections sixteen and seventeen of the said act, shall not be applicable or in force with respect to any railway or portion of a railway in Ireland to which this act applies.

Company to deliver maps, schedules, 4. When and so often as any company authorized to make a railway to which this act applies shall require to purchase or take any lands which they are by the special act authorized to purchase or take, the company shall

cause to be made out, and to be signed by their engineer and estimates at and secretary, maps or plans and schedules of the lands so required (and for the purchase of which lands, or of all the several interests in which lands, the company shall not have contracted), and also of the works which the company propose to make and maintain for the accommodation of lands adjoining the railway (and for compensation in lieu of which the company shall not have contracted), together with the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the said lands respectively, so far as the same can be reasonably ascertained, with estimates of the gross annual value and the value in fee of such lands so required to be purchased or taken as aforesaid, and for the purchase of which, or of all the several interests in which, the company shall not have contracted, and the separate and distinct value of each such interest which the company shall not have contracted to purchase, so far as the same can be reasonably ascertained (taking into consideration damage by severance, and any other matters by the Lands Clauses Consolidation Act, 1845, required to be considered, if necessary); and every such map or plan shall be upon a scale of not less than one inch to every two hundred feet; and all lands, buildings, yards and court-yards, and lands within the curtilage of any building, and ground cultivated as a garden, shall be marked thereon with distinct numbers corresponding with the numbers marked upon the Parliamentary plans of the railway, and shall have put thereon a distinct valuation to each number, and all bridges, roads, and other works proposed to be made for the use and accommodation of the owners, lessees, and occupiers of the lands adjoining the railway shall also be marked on the said maps or plans; and the company shall deposit such maps or plans, schedules and estimates, at the office of the commissioners of public works in Ireland, and a copy of such maps or plans, schedules and estimates, or so much thereof as relates to every county in or through which the railway is proposed to be made, with the clerk of the peace of each such county, and a copy of so much of the said maps or plans, schedules and estimates, as relates to each electoral division in which any such lands shall be situate, with the clerk of the poor law union in which every such electoral division is situate.

5. After such deposit at the office of the said commissioners as aforesaid, it shall be lawful for the said commissioners, upon the application of the company, to appoint an arbitrator between the company and the persons interested in the lands to which such maps or plans, sche- Commis-
sioners to
appoint an
arbitrator.

dules and estimates relate, and such arbitrator shall, in relation to the lands required and the works to be made and maintained by the company, as herein mentioned, be the arbitrator under this act; and if any such arbitrator die, or refuse, decline, or become incapable to act, the said commissioners may appoint an arbitrator in his place who shall have the same powers and authorities as the arbitrator first appointed.

Arbitrator
may call
for docu-
ments.

6. The arbitrator may call for the production of any documents in the possession or power of the company, or of any party making any claim under the provisions of this act, which such arbitrator may think necessary for determining any question or matter to be determined by him under this act, and may examine any such party and his witnesses, and the witnesses for the company, on oath, and administer the oaths necessary for that purpose.

Arbitrator
to make
and sub-
scribe
declaration.

7. Before any arbitrator shall enter upon any inquiry he shall, in the presence of a justice of the peace, make and subscribe the following declaration; that is to say,

"I, A.B., do solemnly and sincerely declare, That I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the act [naming this act].

"A.B."

"Made and subscribed in the presence of ."
And such declaration shall be annexed to the award when made; and if any arbitrator, having made such declaration, wilfully act contrary thereto, he shall be guilty of a misdemeanor.

Maps, &c.
to be de-
livered to
arbitrator

Notice of
appoint-
ment of
arbitrator,
&c. to be
published.

8. Upon the first appointment of an arbitrator as aforesaid, the said commissioners shall deliver to such arbitrator the maps or plans, schedules and estimates, deposited at their office as hereinbefore required; and the company shall forthwith after such appointment publish notice of such appointment, and of such deposits as hereinbefore directed with such clerk of the peace and clerks of poor law unions as aforesaid, once in the Dublin Gazette, and once in each of three successive weeks in some one and the same newspaper circulated in the county in which the lands are situate, stating the times and places of such deposits, and requiring all persons claiming to have any right to or interest in the lands required for the purposes of the railway, and specified in such maps or plans, or to have compensation for any injury to any lands injuriously affected by the execution of the works of the company, or to have any works made by the company for the accommodation of lands adjoining the railway, to deliver to the arbitrator, on or before a day fixed

by the arbitrator and named in such notice (and which day shall not be earlier than thirty-one days from the date of the insertion of the last of such newspaper notices), a short statement in writing of the nature of such claim; and upon the appointment of any arbitrator in the place of an arbitrator dying, or refusing, declining, or becoming incapable to act, all the documents relating to the matter of the arbitration which were in the possession of such arbitrator shall be delivered to the arbitrator appointed in his place, and the company shall publish notice of such appointment in the Dublin Gazette.

9. The arbitrator shall, after the expiration of the period within which such claims are required to be delivered to him as aforesaid, proceed to inquire into and adjudicate upon the value of the lands required for the purposes of the railway, and specified in such maps or plans, and the several interests in such lands, in respect of which no agreement shall have been come to between the company and the persons entitled thereto, and the purchase money to be paid for such lands, and the compensation to be paid for injury to any lands injuriously affected by the execution of the works of the company, and to inquire and determine what works should be made and maintained by the company for the accommodation of lands adjoining the railway; and the arbitrator shall, after due inquiry and examination, frame a draft award setting forth the price or compensation to be paid by the company in respect of the several interests in the lands so required and specified or injuriously affected, and the works to be made and maintained by the company for the accommodation of lands adjoining the railway; and where any inquiry relates not only to the value of the lands to be purchased, but also to compensation claimed for injury done or to be done to any lands held therewith, the arbitrator shall award separate and distinct sums to be paid for the purchase of such lands, or of any interest therein to which the inquiry may relate, and for the damage (if any) to be sustained by reason of the severing of the lands taken from the other lands, or otherwise injuriously affecting such other lands by the exercise of the powers of the company; and such draft award, and copies thereof, or of so much thereof as relates to lands in the respective counties and electoral divisions shall be deposited as hereinbefore directed concerning the said maps or plans, schedules and estimates, and copies thereof, or of so much thereof as aforesaid; and the arbitrator shall cause notice of such award to be given to all persons entitled to payment or compensation under the same, or who shall have been heard before such arbitrator as claim-

Arbitrator
to adjudi-
cate upon
compensa-
tion to be
paid for
lands and
upon ac-
commoda-
tion works.

ants for compensation, and also shall cause notice to be published as hereinbefore directed concerning notice of the deposit of copies of the said maps or plans, schedules and estimates, or so much thereof as aforesaid, of the deposit of copies of such draft award, or of so much thereof as aforesaid, and shall in such notices appoint a time and place, or times and places, for holding a meeting or meetings to hear objections against such draft award (the first such meeting to be not earlier than twenty-one days after the last day of publication of the said notice), and shall hold such meeting or meetings accordingly, and thereat hear and determine any objections which may then and there be made to such draft award by any person interested therein, or adjourn the further hearing thereof, if the arbitrator see fit, to a future meeting, and may take any measures which he may deem proper for ascertaining the value of any such lands or interests as aforesaid, or the justice or propriety of any other matter of such draft award, and may from time to time, if he see occasion, appoint and hold further meetings for hearing and determining objections to such draft award, of which further meetings, when not holden by adjournment, notice shall be given in manner hereinbefore directed; and when the arbitrator has heard and determined all such objections, and made such inquiries as he may think necessary in relation thereto, and made such alterations (if any) as he may deem proper in the draft award, he shall make his award under his hand and seal accordingly; and every such award shall be binding and conclusive, subject to the provisions concerning traverse hereinafter contained, upon all persons whomsoever; and no such award shall be set aside for irregularity in matter of form; and every such award, and copies thereof, or of so much thereof as relates to lands in the respective counties and electoral divisions, shall be deposited as hereinbefore directed with respect to the said maps or plans, schedules and estimates, and copies thereof, or of so much thereof as aforesaid; and the company shall thereupon publish notice, as hereinbefore directed concerning notice of the deposit of copies of such maps or plans, schedules and estimates, or of so much thereof as aforesaid, of the deposit of copies of such award, or of so much thereof as aforesaid, and requiring all persons claiming to have any right to or interest in the lands, the price or compensation to be paid in respect of which is ascertained by such award to deliver to the company, on or before a day to be named in such notice (such day not being earlier than thirty-one days from the date of the last publication of the notice), a short statement in writing of the nature of such claim, and a short

abstract of the title on which the same is founded; and such statement and abstract shall be paid for by the company.

10. Provided always, That the arbitrator may make Separate several awards, so as to include in a separate award the awards may lands in each electoral division, or such portion of the be made as lands in relation to which he is arbitrator as, having refer- to lands in ence to the deposits to be made under this act, the meet- several ings to be holden, and the inquiries to be made in relation places. to such lands, and the convenience of the parties interested in the matter of the arbitration, he may think fit.

11. Every clerk of the peace and clerk of any union is Clerks of hereby required to retain the documents to be deposited the peace, with him under this act in his custody, and to permit all &c. to take persons interested to inspect the same, and to make copies charge of and extracts of and from the same, in the like manner, documents, and upon the like terms, and under the like penalty for default, as is provided by an act of the session holden in the seventh year of King William the Fourth and the first year of her Majesty, chapter eighty-three.

12. The salary or remuneration, travelling and other Expenses expenses of the arbitrator, and all costs, charges, and ex- of arbitra- penses (if any) which shall be incurred by the said com- tor and missioners of public works in carrying the provisions of commis- this act into execution, shall be paid by the company; and sioners to the amount of such costs, charges, and expenses shall from be borne by the time to time be certified by the said commissioners, after company. first hearing any objections that may be made to the reasonableness of any such costs, charges, and expenses by or on behalf of the company; and it shall be lawful for the said commissioners from time to time to require the company to deposit in the Bank of Ireland, to the credit of the said commissioners, any sum or sums of money, or to give such other security for the payment of any such costs, charges, and expenses as to the said commissioners shall seem fit; and every certificate of the said commissioners, certifying the amount of such costs, charges, and expenses, shall be taken as proof in all proceedings at law or in equity of the amount of such respective costs, charges, and expenses, and the amount so certified shall be a debt due from the company to the crown, and shall be recoverable accordingly.

13. It shall be lawful for the arbitrator, where he thinks Costs of fit, upon the request of any party by whom any claim parties. has been made before him, to certify the amount of the costs properly incurred by such party in relation to the arbitration, and the amount of the costs so certified shall be paid by the company: and if within seven days after demand the amount so certified be not paid to the party

entitled to receive the same, such amount shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly; but no such certificate shall be given where the arbitrator has awarded the same or a less sum than has been offered by the company in respect of such claim before the commencement of the arbitration.

Certificates of amount of compensation to be delivered by the company.

14. Within thirty days from the delivery of such statement and abstract as aforesaid to the company, the company shall, where it appears to them that any person so claiming is absolutely entitled to the lands, estate, or interest claimed by him, deliver to such person on demand, a certificate under the company's seal, stating the amount of the price or compensation to which he is entitled under the said award; and where more lands than are included in one number shall be claimed by the same person, such lands, or the interests therein, may be included in one certificate, if the company think fit, such certificates to be prepared by and at the costs of the company; and where any agreement has been entered into in respect to the value of the interest of any person in any lands, or his right to compensation, the company may, where it appears to them that such person is absolutely entitled, deliver to such person a like certificate.

Amount mentioned in certificates to be paid to parties, on demand, &c.

15. The company shall, on demand, pay to the party to whom any such certificate is given, or otherwise as herein provided in the cases hereinafter mentioned, the amount of monies specified to be payable by such certificate to the party to whom or in whose favour such certificate is given, his or her executors, administrators, or assigns; and if the company wilfully make default in such payment as aforesaid, then the party named in such certificate shall be entitled to enter up judgment against the company in the Court of Queen's Bench in Ireland for the amount of the sums specified in such certificate, in the same manner in all respects as if he had been, by warrant of attorney from the company, authorized to enter up judgment for the amount mentioned in the certificate, with costs, as is usual in like cases; and all monies payable under such certificates, or to be recovered by such judgments as aforesaid, shall at law and in equity be taken as personal estate as from the time of the company entering on any such lands as aforesaid.

When amount is paid, company may take possession.

16. When and so soon as the company have paid to the party to whom any such certificate as aforesaid is given, or otherwise, as herein provided, in the cases hereinafter mentioned, the amount specified to be payable by such certificate to the party to whom or in whose favour the certificate is given, his executors, administrators, or assigns,

it shall be lawful for the company, upon obtaining such receipt as hereinafter mentioned, from time to time to enter upon any lands in respect of which such certificate is given, and thenceforth to hold the same for the estate or interest in respect of which the amount specified in such certificate was payable.

17. In every case in which any monies are paid by any company under the provisions of this act, for such price or compensation as aforesaid, the party receiving such monies shall give to the company a receipt for the same, and such receipt shall have the effect of a grant, release, and conveyance of all the estate and interest of such party, and of all parties claiming under or through him, in the lands in respect of which such monies are paid, so as such receipt shall have an *ad valorem* stamp of the same amount impressed thereon in respect of the purchase monies mentioned in such certificate (but exclusive of the amount of compensation for damage by severance or other injury) as would have been necessary if such receipt had been an actual conveyance of such estate or interest, every such receipt to be prepared by and at the costs of the company.

18. If it appear to the company from any such statement and abstract as aforesaid, or otherwise, that the party making any such claim as aforesaid is not absolutely entitled to the lands, estate, or interest in respect of which his claim is made, or is under any disability, or if the title to such lands, estate, or interest be not satisfactorily deduced to the company, then and in every such case the amount to be paid by the company in respect of such lands, estate, or interest as aforesaid shall be paid and applied as provided by the clauses of "The Lands Clauses Consolidation Act, 1845," "with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title."

Receipts
duly
stamped to
operate as
a convey-
ance.

Payment of
monies
where
parties
deemed not
entitled, or
are under
disability,
&c.

19. Where any person claiming any right or interest in any lands shall refuse to produce his title to the same, or where the company have taken possession of any lands under the provisions of this act in respect of the price or compensation whereof, or of any estate or interest wherein, no claim has been made within one year from the time of the company taking possession, or if any party to whom any such certificate has been given or tendered refuse to receive such certificate, or to accept the amount therein specified as payable to him, then and in any such case the amount payable by the company in respect of such lands, estate, or interest, or the amount specified in such certificate, shall be paid into the Bank of Ireland, in the name and with the privity of the Accountant General of the Court of Chancery in Ireland, in manner provided by the

Where no
claim made
or parties
refuse to
accept sum
certified,
money to
be paid into
the bank.

last-mentioned clauses of "The Lands Clauses Consolidation Act, 1845," and the amount so paid into the said bank shall be accordingly dealt with as by the said act provided; and no monies paid into the bank under this act shall be liable to Usher's poundage.

Further
evidence
of title.

20. Nothing herein contained shall prevent the company from requiring any further abstract or evidence of title respecting any lands included in any such award as aforesaid, in addition to the abstract or statement hereinbefore mentioned, if they think fit, so as the same be obtained at the costs of the company.

Delivery of
certificate
may be
enforced by
Court of
Chancery.

21. If from any reason whatever the company shall not deliver the certificate aforesaid to any party claiming to be entitled to any interest in any lands the possession whereof has been taken by the company as aforesaid, then the right to have a certificate according to the provisions of this act may, at the costs and charges of the company, be enforced by any party or parties, by application to the High Court of Chancery in Ireland in a summary way by petition, and all other rights and interests of any party or parties arising under the provisions of this act may be in like manner enforced against the company by such application as aforesaid.

After de-
posit of
draft award
company
may, upon
deposit of
such
amount as
arbitrator
may think
fit, enter
upon lands.

22. Provided always, That where the company are desirous, for the purposes of their works, of entering upon any lands before they would be entitled to enter thereon under the provisions hereinbefore contained, it shall be lawful for the company, at any time after the arbitrator shall have framed his draft award, upon depositing in the Bank of Ireland, as herein directed, such sum as the arbitrator may certify to be in his opinion the proper amount to be so deposited in respect of any lands authorized to be purchased or taken by the company, and mentioned in such draft award, to enter upon and use such lands for the purposes of the railway and works of the company; and the arbitrator shall, upon the request of the company, at any time after he shall have framed such draft award, certify under his hand the sum which in his opinion should be so deposited by the company in respect of any lands mentioned in such draft award before they enter upon and use the same as aforesaid, and the sum to be so certified shall be the sum or the amount of the several sums set forth in such draft award as the sum or sums to be paid by the company in respect of such lands, or such greater amount as to the arbitrator, under the circumstances of the case, may seem proper; and, notwithstanding such entry as aforesaid, all proceedings for and in relation to the completion of the award, the delivery of certificates, and other proceedings under this act, shall be had, and

payments made, as if such entry and deposit had not been made; provided that the company shall, where they enter upon any lands by virtue of this present provision, pay interest at the rate of five pounds per centum per annum upon the purchase and compensation money payable by them in respect of any lands so entered upon, from the time of their entry until the time of the payment of such money and interest to the party entitled thereto, or where, under the provisions of this act, such purchase money or compensation is required to be paid into the said bank, then until the same, with such interest, is paid into such bank accordingly; and where under this provision interest is payable on any purchase or compensation money the certificate to be delivered by the company in respect thereof shall specify that interest is so payable, and the same shall be recoverable in like manner as the principal money mentioned in such certificate.

23. The money to be deposited as aforesaid in respect of any lands shall be paid into the bank of Ireland in the name and with the privity of the Accountant-General of the Court of Chancery in Ireland, to be placed to his account there to the credit of the company (describing the company by its proper name), in the matter of the Railways Act (Ireland), 1851, and of the lands in respect of which the same is paid, subject to the control and disposition of the said court; and upon such deposit the cashier of the said bank shall give to the company, or to the party paying in such money by their direction, a receipt for the same.

24. The money so deposited as last aforesaid shall remain in the bank by way of security to the parties interested in the lands which shall so have been entered upon, for the payment of the money to become payable by the company in respect thereof under the award of the arbitrator; and the money so deposited may, on the application by petition of the company, be ordered to be invested in bank annuities or government securities, and accumulated; and upon such payment as aforesaid by the company it shall be lawful for the Court of Chancery in Ireland, upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or transferred to the company, or, in default of such payment as aforesaid by the company, it shall be lawful for the said court to order the same to be applied in such manner as it shall think fit for the benefit of the parties for whose security the same shall so have been deposited.

25. If at any time the company be unable, by reason of the closing of the office of the Accountant-General of

Company
to pay
interest
from time
of entry.

Mode of
deposit.

Deposit to
remain as a
security,
and to be
applied
under the
direction of
the court.

Company
may deposit

money by way of security while the office of the accountant general is closed.

the said Court of Chancery, to obtain his authority in respect of the payment of any sum of money so authorized to be deposited in the bank by way of security as aforesaid, it shall be lawful for the company to pay into the bank, to such credit as aforesaid (subject nevertheless to being dealt with as herein provided), such sum of money as the company shall by some writing signed by their secretary or solicitors for the time being, addressed to the governor and company of the bank in that behalf, request, and upon any such payment being made the cashier of the bank shall give a certificate thereof; and in every such case, within ten days after the re-opening of the said Accountant-General's office, the solicitor for the company shall there bespeak the direction for the payment of such sum in to the name of the Accountant-General, and upon production of such direction at the bank of Ireland the money so previously paid in shall be placed to the credit of the said Accountant-General accordingly, and the receipt for the said payment be given to the party making the same in the usual way, for the purpose of being filed at the report office.

Parties dissatisfied with award, may enter a traverse at assizes.

26. Where the party named in any certificate issued under the provisions hereinbefore contained of the amount of the price or compensation ascertained by any award under this act (or any party claiming under the party so named) shall be dissatisfied with the amount in such certificate certified to be payable, and where any party claiming any interest in any monies so paid into court as aforesaid shall be dissatisfied with the amount of the price or compensation in respect of which such monies shall be so paid into court, and where any party interested in land adjoining any railway shall be dissatisfied with any award under this act so far as respects any works for the accommodation of such lands thereby awarded to be made and maintained by the company, or which such party may claim to have so made and maintained, it shall be lawful for such party, at the assizes for the county in which the lands are situate, or, where the lands are situate in the county of Dublin or county of the city of Dublin, in the term next following the giving of such certificate, or the payment of such money into court, or (if the claim be only in respect of accommodation works) the making of the award, or where such assizes are holden or such term begins within less than twenty-one days after the giving of such certificate, or the payment of such money, or the making of the award, then at the next subsequent assizes, or in the next subsequent term (as the case may be), upon giving ten days notice in writing previously to such assizes or term respectively to the secretary of the com-

pany, of the amount or the accommodation works intended to be claimed, to have a traverse for damages entered in the crown book in respect of such claim, and thereupon such traverse shall be tried in like manner, and like proceedings shall be had, and subject to like provisions, as far as the same can be applied, as in the case of traverses entered for damages under the acts for consolidating and amending the laws relating to the presentment of public monies by grand juries in Ireland: Provided always, that the sum to be awarded or allowed as the costs, charges, and expenses of the trial of every such traverse for damages shall in no case exceed the sum of twenty pounds, and further that no party shall have any other remedy for the purpose of impeaching the amount of any price or compensation ascertained by any such award as aforesaid, or the sufficiency of the accommodation works awarded thereby, other than by means of such traverse as aforesaid, anything in any act to the contrary notwithstanding: Provided also, that the jury which shall try such traverse shall be sworn a true verdict to give, whether any and what damages will be sustained by the traverser, regard being had to the value of the lands of such traverser required, and to the injury to any lands of such traverser injuriously affected by the works of the company, or (as the case may be) as to what accommodation works ought to be made and maintained by the company for the accommodation of the lands of the traverser, or to the like effect respectively, as the case may be.

27. The entry of the verdict of the jury in case of each traverse in the crown book shall be a final decision, and binding upon all parties interested, and shall have the effect of a judgment at law obtained in the Court of Queen's Bench in Ireland against the company, and may be enforced by like remedies against the company as in the case of a judgment at law, by all parties interested therein; and in each case where a certificate shall have been delivered, such damages shall be taken and recovered in lieu of the monies expressed to be payable by the certificate, and which shall, on payment of the damages, and any costs payable by the company, be delivered up to the said company, and such receipt for such damages shall be given as is hereinbefore provided in cases of payment of monies on such certificates as aforesaid; and where such damages shall be given in respect of any land, the amount of the price or compensation in respect of which, as ascertained by an award under this act, shall have been paid into court, then if the amount of such damages shall be less than the amount paid into court, the company shall, on a summary application by petition, be entitled

Verdict on
traverse to
have effect
of judg-
ment.

to receive the difference between the amount of such damages and the amount of the sum paid into court, but if the amount of such damages shall exceed the amount of the monies paid into court, then the difference between the amount paid in and the damages shall, at the costs of the company, be paid into court; and the payment of such difference into court, and the payment of any costs payable by the company in respect of such traverse, shall be a good discharge to the company on any such verdict in the nature of a judgment as aforesaid.

Additional
lands.

28. The provisions of this act shall extend to the purchase by the company of lands for extraordinary purposes.

8 Vict. c.
18, incor-
porated.

29. All the provisions of "The Lands Clauses Consolidation Act, 1845," shall, subject to the provisions herein contained, extend to and be taken as part of this act, except so far as the same are inconsistent therewith.

Company.

30. In the construction of this act the words "the company" shall mean the company constituted by the special act.

Ireland.

31. This act shall extend to Ireland only.

Continued
by subse-
quent acts.

32. *This act shall continue in force for five years next after the passing thereof, and thence to the end of the then next session of Parliament.*

17 & 18 VICT. cap. 31.

*An Act for the better Regulation of the Traffic on
Railways and Canals.* [10th July, 1854.]

WHEREAS it is expedient to make better provision for regulating the traffic on railways and canals: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. In the construction of this act "the Board of Trade" shall mean the Lords of the committee of her Majesty's privy council for trade and foreign plantations: The word "traffic" shall include not only passengers, and their luggage, and goods, animals, and other things conveyed by any railway company or canal company, or railway and canal company, but also carriages, waggons, trucks, boats, and vehicles of every description adapted for running or passing on the railway or canal of any such company: The word "railway" shall include every station of or belonging to such railway used for the purposes of public traffic: and, the word "canal" shall include any navigation whereon tolls are levied by authority of Parliament, and also the wharves and landing places of and belonging to such canal or navigation, and used for the purposes of public traffic: The expression "railway company," "canal company," or "railway and canal company," shall include any person being the owner or lessee of or any contractor working any railway or canal or navigation constructed or carried on under the powers of any act of Parliament: A station, terminus, or wharf shall be deemed to be near another station, terminus, or wharf when the distance between such stations, termini, or wharves shall not exceed one mile, such stations not being situate within five miles from St. Paul's Church, in London.

2. Every railway company, canal company, and railway and canal company, shall, according to their respective powers, afford all reasonable facilities for the receiving and forwarding and delivering of traffic upon and from the several railways and canals belonging to or worked by such companies respectively, and for the return of carriages, trucks, boats, and other vehicles, and no such company shall make or give any undue or unreasonable

Preamble.
Interpre-
tation of
words.Board of
Trade.

Traffic.

Railway.

Canal.

Company.

Stations.

Railway
companies
to make
arrange-
ments for
receiving
and for-
warding
traffic with-

out unrea-
sonable
delay, and
without
partiality.

preference or advantage to or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever, nor shall any such company subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; and every railway company and canal company and railway and canal company having or working railways or canals which form part of a continuous line of railway or canal or railway and canal communication, or which have the terminus, station, or wharf of the one near the terminus, station, or wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding all the traffic arriving by one of such railways or canals by the other, without any unreasonable delay, and without any such preference or advantage, or prejudice or disadvantage, as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways or canals or railways and canals as a continuous line of communication, and so that all reasonable accommodation may, by means of the railways and canals of the several companies, be at all times afforded to the public in that behalf.

Parties
complain-
ing that
reasonable
facilities for
forwarding
traffic, &c.,
are with-
held, may
apply by
motion or
summons
to the supe-
rior courts.

Inquiries
by engi-
neers or
barristers.

3. It shall be lawful for any company or person complaining against any such companies or company of anything done, or of any omission made in violation or contravention of this act, to apply in a summary way, by motion or summons, in England, to her Majesty's Court of Common Pleas at Westminster, or in Ireland to any of her Majesty's Superior Courts in Dublin, or in Scotland to the Court of Session in Scotland, as the case may be, or to any judge of any such court; and, upon the certificate to her Majesty's Attorney General in England or Ireland, or her Majesty's Lord Advocate in Scotland, of the Board of Trade alleging any such violation or contravention of this act by any such companies or company, it shall also be lawful for the said Attorney General or Lord Advocate to apply in like manner to any such court or judge, and in either of such cases it shall be lawful for such court or judge to hear and determine the matter of such complaint; and for that purpose, if such court or judge shall think fit, to direct and prosecute, in such mode and by such engineers, barristers, or other persons as they shall think proper, all such inquiries as may be deemed necessary to enable such court or judge to form a just judgment on the matter of such complaint; and if it be made to appear to such court or judge on such hearing, or on the report of any such person, that anything has been done or omission made, in violation or contravention of this act, by such company or companies, it

shall be lawful for such court or judge to issue a writ of injunction or interdict, restraining such company or companies from further continuing such violation or contravention of this act, and enjoining obedience to the same; and in case of disobedience of any such writ of injunction or interdict it shall be lawful for such court or judge to order that a writ or writs of attachment, or any other process of such court incident or applicable to writs of injunction or interdict, shall issue against any one or more of the directors of any company, or against any owner, lessee, contractor, or other person failing to obey such writ of injunction or interdict; and such court or judge may also, if they or he shall think fit, make an order directing the payment by any one or more of such companies of such sum of money as such court or judge shall determine, not exceeding for each company the sum of two hundred pounds for every day, after a day to be named in the order, that such company or companies shall fail to obey such injunction or interdict; and such monies shall be payable as the court or judge may direct, either to the party complaining, or into court to abide the ultimate decision of the court, or to her Majesty, and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by decree or judgment in any Superior Court at Westminster or Dublin, in England or Ireland, and in Scotland by such diligence as is competent on an extracted decree of the Court of Session; and in any such proceeding as aforesaid, such court or judge may order and determine that all or any costs thereof or thereon incurred shall and may be paid by or to the one party or the other, as such court or judge shall think fit; and it shall be lawful for any such engineer, barrister, or other person, if directed so to do by such court or judge, to receive evidence on oath relating to the matter of any such inquiry, and to administer such oath.

Writ of
injunction
may be
issued.

Penalty.

Costs.

4. It shall be lawful for the said Court of Common Pleas Judges may at Westminster, or any three of the judges thereof, of whom the Chief Justice shall be one, and it shall be lawful for the said courts in Dublin, or any nine of the Judges thereof, of whom the Lord Chancellor, the Master of the Rolls, the Lords Chief Justice of the Queen's Bench and Common Pleas, and the Lord Chief Baron of the Exchequer, shall be five, from time to time to make all such general rules and orders as to the forms of proceedings and process, and all other matters and things touching the practice and otherwise in carrying this act into execution before such courts and judges, as they

Judges may
make such
regulations
as may be
necessary
for proceed-
ings under
this act.

may think fit, in England or in Ireland, and in Scotland it shall be lawful for the Court of Session to make such Acts of Sederunt for the like purpose as they shall think fit.

Court or judge may order a rehearing.

5. Upon the application of any party aggrieved by the order made upon any such motion or summons as aforesaid, it shall be lawful for the court or judge by whom such order was made, to direct, if they think fit so to do, such motion or application on summons to be reheard before such court or judge, and upon such rehearing to rescind or vary such order.

Mode of proceeding under this act.

6. No proceeding shall be taken for any violation or contravention of the above enactments, except in the manner herein provided; but nothing herein contained shall take away or diminish any rights, remedies, or privileges of any person or company against any railway or canal or railway and canal company under the existing law.

Company liable for neglect or default in the carriage of animals or goods, notwithstanding notice to the contrary.

7. Every such company as aforesaid shall be liable for the loss of or for any injury done to any horses, cattle, or other animals, or to any articles, goods, or things, in the receiving, forwarding, or delivering thereof, occasioned by the neglect or default of such company or its servants, notwithstanding any notice, condition, or declaration made and given by such company contrary thereto, or in anywise limiting such liability; every such notice condition or declaration being hereby declared to be null and void: Provided always, that nothing herein contained shall be construed to prevent the said companies from making such conditions with respect to the receiving, forwarding, and delivering of any of the said animals, articles, goods, or things, as shall be adjudged by the court or judge before whom any question relating thereto shall be tried to be just and reasonable: Provided always, that no greater damages shall be recovered for the loss of or for any injury done to any of such animals, beyond the sums herein-after mentioned; (that is to say,) for any horse fifty pounds; for any neat cattle, per head, fifteen pounds; for any sheep or pigs, per head, two pounds; unless the person sending or delivering the same to such company shall, at the time of such delivery, have declared them to be respectively of higher value than as above mentioned; in which case it shall be lawful for such company to demand and receive by way of compensation for the increased risk and care thereby occasioned, a reasonable per-centage upon the excess of the value so declared above the respective sums so limited as aforesaid, and which shall be paid in addition to the ordinary rate of charge; and such per-centage or increased rate of charge shall be

Company not liable beyond a limited amount in certain cases, unless the value declared and extra payment made.

notified in the manner prescribed in the Statute Eleventh George Fourth and First William Fourth, chapter sixty-eight, and shall be binding upon such company in the manner therein mentioned: Provided also, that the proof of the value of such animals, articles, goods, and things, and the amount of the injury done thereto, shall in all cases lie upon the person claiming compensation for such loss or injury: Provided also, that no special contract between such company and any other parties respecting the receiving, forwarding, or delivering of any animals, articles, goods, or things as aforesaid shall be binding upon or affect any such party unless the same be signed by him or by the person delivering such animals, articles, goods, or things respectively for carriage: Provided also, that nothing herein contained shall alter or affect the rights, privileges, or liabilities of any such company under the said Act of the Eleventh George Fourth and First William Fourth, chapter sixty-eight, with respect to articles of the descriptions mentioned in the said Act.

8. This Act may be cited for all purposes as "The Short title. Railway and Canal Traffic Act, 1854."

21 & 22 VICT. cap. 75.

An Act to amend the Law relating to Cheap Trains, and to restrain the Exercise of certain Powers by Canal Companies being also Railway Companies. [2d August, 1858.]

WHEREAS by the Act passed in the session of Parliament 7 & 8 Vict. held in the seventh and eighth years of the reign of her c. 85. present Majesty, chapter eighty-five, section six, it is enacted, amongst other things, with respect to the cheap trains thereby required to be provided in certain cases, that the fare or charge for each third-class passenger by any such train shall not exceed one penny for each mile travelled: And whereas it is expedient to amend the said Act in manner hereinafter mentioned: And whereas it is also expedient to amend the act passed in the ninth year of the reign of her present Majesty, chapter forty-two, intituled "An Act to enable Canal Companies to become Carriers of 8 & 9 Vict. Goods upon their Canals," by restraining as herein-after c. 42. mentioned the exercise of certain powers therein contained: Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. When the distance travelled by any third-class passenger by any train run in compliance with the provisions relating to cheap trains contained in the said act of the seventh and eighth of Victoria, chapter eighty-five, is a portion of a mile, and does not amount to one mile, the fare for such portion of a mile may be one penny, or when such distance amounts to one mile, or two or more miles, and a portion of another mile, the fare or charge for such portion of a mile, if the same amounts to or exceeds one half mile, may be one halfpenny: Provided always, that for children of three years and upwards, but under twelve years of age, the fare or charge shall not exceed half the charge for an adult passenger.

2. After the passing of this act, no fare heretofore charged to or received from any third-class passenger by any such train as aforesaid shall in any proceeding to be hereafter instituted be deemed to have exceeded the rate prescribed in such case by the said act of the seventh and eighth of Victoria, chapter eighty-five, if the same shall be deemed excessive.

not have exceeded the rate of one farthing for each entire quarter of a mile travelled.

Canal companies, being also railway companies, not to take leases of railways or canals unless specially authorized.

3. Notwithstanding anything contained in the said recited Act of the ninth year of her Majesty, it shall not be lawful for any canal or navigation company, being also a railway company, or entitled to work any railway constructed under the authority of any Act of Parliament, hereafter to accept a lease of the whole or any part of the undertaking of any other railway and canal company or of any canal or navigation company, or of the tolls, dues, or charges upon or in respect of the whole or any part of any such undertaking, except under the powers of some act or acts heretofore passed or to be hereafter passed in which the parties to any such lease shall be specifically named and authorized to enter into the same.

Act to be in force for one year.

4. This act shall continue in force for one year next after the passing thereof, and thence to the end of the then next session of Parliament.

22 & 23 VICT. cap. 59.

*An Act to enable Railway Companies to settle
their Differences with other Companies by
Arbitration.* [13th August, 1859.]

FOR the better providing for the settlement by arbitration of matters in which railway companies in the United Kingdom are mutually interested, be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

1. This act may for all purposes be cited as "Railway Companies Arbitration Act, 1859;" and the expression "Railway Companies" in this Act extends to and includes "Railway all persons being the owners or lessees of, and all contractors working any railway upon which steam power is used." Short title.

2. Any two or more railway companies, whether already or hereafter incorporated (in this act called the "the Companies"), from time to time, by writing under their respective common seals, may agree to refer and may refer to arbitration, in accordance with this act, any then existing or future differences, questions, or other matters whatsoever in which they then are or thereafter shall be mutually interested, and which they might lawfully settle or dispose of by agreement between themselves, and may delegate to the person or persons to whom the reference is made any power to determine all or any of the terms of any contract to be made between the companies which the directors of the companies respectively might lawfully delegate to any committees of themselves respectively. Power for railway companies to refer matters to arbitration.

3. The companies jointly, but not otherwise, from time to time, by writing under their respective common seals, may add to, alter, or revoke any agreement for reference in accordance with this act theretofore entered into between the companies, or any of the terms, conditions, or stipulations thereof. Power to alter or revoke agreements for reference.

4. Every reference or agreement in accordance with this act, except so far as it is from time to time revoked or modified in accordance with this act, shall bind the companies, and may and shall be carried into full effect. Agreements to be carried into effect.

5. Where the companies agree, the reference shall be made to a single arbitrator. Reference to single arbitrator.

Reference
to two or
more arbi-
trators.

6. Except where the companies agree that the reference shall be made to a single arbitrator, the reference shall be made as follows; to wit,

Where there are two companies the reference shall be made to two arbitrators:

Where there are three or more companies the reference shall be made to so many arbitrators as there are companies.

Appoint-
ment of
arbitrators
by com-
panies.

7. Where there are to be two or more arbitrators, every company shall by writing under their common seal appoint one of the arbitrators, and shall give notice in writing thereof to the other company or companies.

Appoint-
ment of
arbitrators
by Board of
Trade.

8. Where there are to be two or more arbitrators, if any of the companies fail to appoint an arbitrator within fourteen days after being thereunto requested in writing by the other company, or by the other companies or any of them, then, on the application of the companies or any of them, the Board of Trade, instead of the company so failing to appoint an arbitrator, may appoint an arbitrator; and the arbitrator so appointed shall for the purposes of this act be deemed to be appointed by the company so failing.

Appoint-
ment of
arbitrators
by com-
panies to
supply va-
cancies.

9. When the reference is made to two or more arbitrators, if before the matters referred to them are determined any arbitrator dies, or becomes incapable or unfit, or for seven consecutive days fails to act as arbitrator, the company by which he was appointed shall by writing under their common seal appoint an arbitrator in his place.

Appoint-
ment of
arbitrators
by Board of
Trade to
supply va-
cancies.

10. Where the company by which an arbitrator ought to be appointed in the place of the arbitrator so deceased, incapable, unfit, or failing to act, fail to make the appointment within fourteen days after being thereunto requested in writing by the other company, or by the other companies or any of them, then, on the application of the companies or any of them, the Board of Trade may appoint an arbitrator; and the arbitrator so appointed by the Board of Trade shall for the purposes of this act be deemed to be appointed by the company so failing.

Appoint-
ment of
arbitrator
not revo-
cable.

11. When any appointment of an arbitrator is made, the company making the appointment shall have no power to revoke the appointment, without the previous consent in writing of the other company, or every other company in writing under their common seal.

Appoint-
ment of
umpire by
arbitrators.

12. Where two or more arbitrators are appointed, they shall, before entering on the business of the reference, appoint by writing under their hands an impartial and qualified person to be their umpire.

Appoint-
ment of
umpire by

13. If the arbitrators do not appoint an umpire within seven days after the reference is made to the arbitrators, then, on the application of the companies, or any of them,

the Board of Trade may appoint an umpire; and the umpire so appointed shall for the purposes of this act be deemed to be appointed by the arbitrators.

14. Where two or more arbitrators are appointed, if before the matters referred to them are determined their umpire dies, or becomes incapable or unfit, or for seven consecutive days fails to act as umpire, the arbitrators shall by writing under their hands appoint an impartial and qualified person to be their umpire in his place.

15. If the arbitrators fail to appoint an umpire within seven days after notice in writing to them of the decease, incapacity, unfitness, or failure to act of their umpire, then, on the application of the companies, or any of them, the Board of Trade may appoint an umpire; and the umpire so appointed shall for the purposes of this act be deemed to be appointed by the arbitrators so failing.

16. Every arbitrator appointed in the place of a preceding arbitrator, and every umpire appointed in the place of a preceding umpire, shall respectively have the like powers and authorities as his respective predecessor.

17. Where there are two or more arbitrators, if they do not, within such a time as the companies agree on, or, failing such agreement, within thirty days next after the reference is made to the arbitrators, agree on their award thereon, then the matters referred to them, or such of those matters as are not then determined, shall stand referred to their umpire.

18. The arbitrator, and the arbitrators, and the umpire respectively may call for the production of any documents or evidence in the possession or power of the companies respectively, or which they respectively can produce, and which the arbitrator, or the arbitrators, or the umpire shall think necessary for determining the matters referred, and may examine the witnesses of the companies respectively on oath, and may administer the requisite oath; and in Scotland may grant diligence for the recovery of the documents or evidence, and for citing witnesses, and on application to the Lord Ordinary he may issue letters of supplement or other necessary writs in support of the diligence.

19. Except where and as the companies otherwise agree, the arbitrator, and the arbitrators, and the umpire respectively may proceed in the business of the reference in such manner as he and they respectively shall think fit.

20. The arbitrator, and the arbitrators, and the umpire respectively may proceed in the absence of all or any of the companies in every case in which, after giving notice in that behalf to the companies respectively, the arbitrator, or the arbitrators, or the umpire shall think fit so to proceed.

Several awards may be made.

21. The arbitrator, and the arbitrators, and the umpire respectively may, if he and they respectively think fit, make several awards, each on part of the matters referred, instead of one award on all the matters referred; and every such award on part of the matters shall for such time as shall be stated in the award, the same being such as shall have been specified in the agreement for arbitration, or in the event of no time having been so specified, for any time which the arbitrator may be legally entitled to fix, be binding as to all the matters to which it extends, and as if the matters awarded on were all the matters referred, and that notwithstanding the other matters or any of them be not then or thereafter awarded on.

Awards made in due time to bind all parties.

22. The award of the arbitrator, or of the arbitrators, or of the umpire, if made in writing under his or their respective hand or hands, and ready to be delivered to the companies within such a time as the companies agree on, or, failing such agreement, within thirty days next after the matters in difference are referred to (as the case may be) the arbitrator, or the arbitrators, or the umpire, shall be binding and conclusive on all the companies.

Umpire may extend period for making his award.

23. Provided always, That (except where and as the companies otherwise agree) the umpire, from time to time by writing under his hand, may extend the period within which his award is to be made; and if it be made and ready to be delivered within the extended time, it shall be as valid and effectual as if made within the prescribed period.

Awards not to be set aside.

24. No award made on any arbitration in accordance with this act shall be set aside for any irregularity or informality.

Awards to be obeyed.

25. Except only so far as the companies bound by any award in accordance with this act from time to time otherwise agree, all things by every award in accordance with this act lawfully required to be done, omitted, or suffered shall be done, omitted, or suffered accordingly.

Agreements, arbitrations, and awards to have effect.

26. Full effect shall be given by all the superior courts of law and equity in the United Kingdom, according to their respective jurisdiction, and by the companies respectively, and otherwise, to all agreements, references, arbitrations, and awards in accordance with this act; and the performance or observance thereof may, where the courts think fit, be compelled by distress infinite on the property of the companies respectively, or by any other process against the companies respectively or their respective property that the courts or any judge thereof shall direct, and where requisite frame for the purpose.

Costs of arbitration

27. Except where and as the companies otherwise agree, the costs of and attending the arbitration and the award

shall be in the discretion of the arbitrator, and the arbitrators, and the umpire respectively. award.

28. Except where and as the companies otherwise agree, and if and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by the companies in equal shares, and in other respects the companies shall bear their own respective costs. Payment of costs.

29. The submission to any arbitration in accordance with this act may at any time be made a rule of any of her Majesty's superior courts of record at Westminster, or, as the case may be, at Dublin, on the application of any party interested; and the court may remit the matter to the arbitrator, or to the arbitrators, or to the umpire, with any directions the court think fit. Submission to be made a rule of court.

APPENDIX.

1 WILLIAM IV., cap. 68.

An Act for the more effectual Protection of Mail Contractors, Stage Coach Proprietors, and other Common Carriers for Hire, against the Loss of or Injury to Parcels or Packages delivered to them for Conveyance or Custody, the Value and Contents of which shall not be declared to them by the Owners thereof. [23d July, 1830.]

Preamble. WHEREAS by reason of the frequent practice of bankers and others of sending by the public mails, stage coaches, waggons, vans, and other public conveyances by land for hire, parcels and packages containing money, bills, notes, jewellery, and other articles of great value in small compass, much valuable property is rendered liable to depredation, and the responsibility of mail contractors, stage coach proprietors, and common carriers for hire is greatly increased: and whereas through the frequent omission by persons sending such parcels and packages to notify the value and nature of the contents thereof, so as to enable such mail contractors, stage coach proprietors, and other common carriers, by due diligence, to protect themselves against losses arising from their legal responsibility, and the difficulty of fixing parties with knowledge of notices published by such mail contractors, stage coach proprietors, and other common carriers, with the intent to limit such responsibility, they have become exposed to great and unavoidable risks, and have thereby sustained heavy losses.

Mail contractors, coach proprietors, and carriers not to be liable for 1. Be it therefore enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act no mail contractor, stage coach proprietor, or other common carrier by land for hire shall be liable for the loss of or

injury to any article or articles or property of the descriptions following; (that is to say,) gold or silver coin of this realm or of any foreign state, or any gold or silver in a manufactured or unmanufactured state, or any precious stones, jewellery, watches, clocks, or time-pieces of any description, trinkets, bills, notes of the governor and company of the banks of England, Scotland, and Ireland respectively, or of any other bank in Great Britain or Ireland, orders, notes, or securities for payment of money, English or foreign, stamps, maps, writings, title deeds, paintings, engravings, pictures, gold or silver plate or plated articles, glass, china, silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials, furs, or lace, or any of them, contained in any parcel or package which shall have been delivered, either to be carried for hire or to accompany the person of any passenger in any mail or stage coach or other public conveyance, when the value of such article or articles or property aforesaid contained in such parcel or package shall exceed the sum of ten pounds, unless at the time of the delivery thereof at the office, warehouse, or receiving house of such mail contractor, stage coach proprietor, or other common carrier, or to his, her, or their book-keeper, coachman, or other servant, for the purpose of being carried or of accompanying the person of any passenger as aforesaid, the value and nature of such article or articles or property shall have been declared by the person or persons sending or delivering the same, and such increased charge as herein-after mentioned, or an engagement to pay the same, be accepted by the person receiving such parcel or package.

2. And be it further enacted, that when any parcel or package containing any of the articles above specified shall be so delivered, and its value and contents declared as aforesaid, and such value shall exceed the sum of ten pounds, it shall be lawful for such mail contractors, stage coach proprietors, and other common carriers to demand and receive an increased rate of charge, to be notified by some notice affixed in legible character in some public and conspicuous part of the office, warehouse, or other receiving house where such parcels or packages are received by them for the purpose of conveyance, stating the increased rates of charge required to be paid over and above the ordinary rate of carriage as a compensation for the greater risk and care to be taken for the safe conveyance of such valuable articles; and all persons sending or delivering parcels or packages containing such valuable articles as aforesaid at such office shall be bound by such

loss of certain goods above the value of 10l., unless delivered as such, and increased charge accepted.

When any parcel shall be so delivered an increased rate of charge may be demanded. Notice of the same to be affixed in offices or warehouses

notice, without further proof of the same having come to their knowledge.

Carriers to give receipts acknowledging increased rate.

In case of neglect not to be entitled to benefit of this act.

Publication of notices not to limit the liability of proprietors, &c., in respect of any other goods conveyed.

Every office used to be deemed a receiving-house ;

and any one coach proprietor or carrier shall be liable to be sued.

3. Provided always, and be it further enacted, that when the value shall have been so declared, and the increased rate of charge paid, or an engagement to pay the same shall have been accepted as herein-before mentioned, the person receiving such increased rate of charge or accepting such agreement shall, if thereto required, sign a receipt for the package or parcel, acknowledging the same to have been insured, which receipt shall not be liable to any stamp duty; and if such receipt shall not be given when required, or such notice as aforesaid shall not have been affixed, the mail contractor, stage coach proprietor, or other common carrier as aforesaid shall not have or be entitled to any benefit or advantage under this act, but shall be liable and responsible as at the common law, and be liable to refund the increased rate of charge.

4. Provided always, and be it enacted, that from and after the first day of September now next ensuing no public notice or declaration heretofore made or hereafter to be made shall be deemed or construed to limit or in anywise affect the liability at common law of any such mail contractors, stage coach proprietors, or other public common carriers as aforesaid for or in respect of any articles or goods to be carried and conveyed by them; but that all and every such mail contractors, stage coach proprietors, and other common carriers as aforesaid shall from and after the said first day of September be liable, as at the common law, to answer for the loss of any injury to any articles and goods in respect whereof they may not be entitled to the benefit of this act, any public notice or declaration by them made and given contrary thereto, or in anywise limiting such liability, notwithstanding.

5. And be it further enacted, that for the purposes of this act every office, warehouse, or receiving house which shall be used or appointed by any mail contractor or stage coach proprietor, or other such common carrier as aforesaid for the receiving of parcels to be conveyed as aforesaid, shall be deemed and taken to be the receiving house, warehouse, or office of such mail contractor, stage coach proprietor, or other common carrier; and that any one or more of such mail contractors, stage coach proprietors, or common carrier shall be liable to be sued by his, her, or their name or names only; and that no action or suit commenced to recover damages for loss or injury to any parcel, package, or person shall abate for the want

of joining any co-proprietor or co-partner in such mail, stage coach, or other public conveyance by land for hire as aforesaid.

6. Provided always, and be it further enacted, that Act not to nothing in this act contained shall extend or be construed affect contracts. to annul or in anywise affect any special contract between such mail contractor, stage coach proprietor, or common carrier, and any other parties, for the conveyance of goods and merchandises.

7. Provided also, and be it further enacted, that where Parties entitled to any parcel or package shall have been delivered at any such office, and the value and contents declared as aforesaid, and the increased rate of charges been paid, and damages may also such parcels or packages shall have been lost or damaged, recover extra the party entitled to recover damages in respect of such charges. loss or damage shall also be entitled to recover back such increased charges so paid as aforesaid, in addition to the value of such parcel or package.

8. Provided also, and be it further enacted, that Act not to nothing in this act shall be deemed to protect any mail protect felonious contractor, stage coach proprietor, or other common carrier for hire from liability to answer for loss or injury acts. to any goods or articles whatsoever arising from the felonious acts of any coachman, guard, book-keeper, porter, or other servant in his or their employ, nor to protect any such coachman, guard, book-keeper, or other servant from liability for any loss or injury occasioned by his or their own personal neglect or misconduct.

9. Provided also, and be it further enacted, that such Coach proprietors mail contractors, stage coach proprietors, or other common carriers for hire shall not be concluded as to the value of and carriers any such parcel or package by the value so declared as liable only to such aforesaid, but that he or they shall in all cases be entitled damages as to require, from the party suing in respect of any loss or are proved. injury, proof of the actual value of the contents by the ordinary legal evidence, and that the mail contractors, stage coach proprietors, or other common carriers as aforesaid shall be liable to such damages only as shall be so proved as aforesaid, not exceeding the declared value, together with the increased charges as before mentioned.

10. And be it further enacted, that in all actions to be Money may brought against any such mail contractor, stage coach be paid into proprietor, or other common carrier as aforesaid, for the court in all loss of or injury to any goods delivered to be carried, actions for whether the value of such goods shall have been declared loss of or not, it shall be lawful for the defendant or defendants goods. to pay money into court in the same manner and with

the same effect as money may be paid into court in any other action.

Public act. 11. And be it further enacted, that this act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such by all judges, justices, and others, without being specially pleaded.

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- Luggage*—weight of, which may

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be taken by military or police forces, 7 & 8 Vict. c. 85, s. 12

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Meeting of a Railway Company authorised by an act passed previous to the 14th August, 1850—may be called by directors to determine whether application shall be made to the Board of Trade to be allowed to abandon their undertaking, 13 & 14 Vict. c. 83, s. 2

—— to be called by directors upon requisition of prescribed number of shareholders, 13 & 14 Vict. c. 83, s. 3

—— when any meeting shall have been called for such purpose the directors not required to call any further meeting for the like object until after 12 months, 13 & 14 Vict. c. 83, s. 3

—— after any such meeting called, the directors not to make certain payments, or enter into contracts, or make calls, or register transfers of shares, 13 & 14 Vict. c. 83, s. 4

—— mode of calling such meeting, and of signifying the assent or dissent of the shareholders, 13 & 14 Vict. c. 83, s. 5

—— at such meeting the number of shareholders assenting or dissenting to be ascertained by scrutineers and reported to the chairman, and publicly announced, 13 & 14 Vict. c. 83, s. 6

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